

Agenda

Environmental Protection Commission

ADM-1-1
RECORD COPY

File Name

EP - October 1995

Senders Initials

October 16, 1995

10:00 AM

Wallace State Office Building, Fourth Floor Conference Room

Public Participation

10:30 A.M.

Appointments: *Lynn Wiese - Welch Oil, Inc. (Item # 18)*

11:30 A.M.

Paul Klocke (Item #19a)

1:15 p.m.

Carroll County Drainage District #23 (Item 19A)

Harold Lee (Item #19f)

1:45 p.m.

Thomas Buckley (Item #19g)

2:15 p.m.

Dennis Ryan - (Item # 19B)

2:45 p.m.

Agenda topics

1. Approve Agenda
2. Approve Minutes of September 18, 1995 and Electronic Minutes of September 22, 1995
3. Director's Report Larry Wilson (Information)
4. Monthly Financial Status Report Stan Kuhn (Information)
5. Muscatine Recycling Center and Transfer Regional Collection Center Grant Contract Stan Kuhn (Decision)
6. Final Rule--Chapter 101, General Requirements Relating to Solid Waste Management Disposal Teresa Hay (Decision)
7. Landfill Alternatives Financial Assistance Contract--Skumatz Economic Research Associates, Inc. and Fremont County Waste Systems Teresa Hay (Decision)
8. Monthly Reports Allan Stokes (Information)
9. Amendment to UHL Agreement for Flood Impacted Water Supply Sampling Allan Stokes (Decision)
10. Nonpoint Source Pollution Control Project Contracts Allan Stokes (Decision)
11. Proposed Rule--Chapter 61, Water Quality Standards, Corps Nationwide Permit for Single Family Housing Allan Stokes (Information)
12. Notice of Intended Action--Chapter 23, Laboratory Certification Allan Stokes (Decision)

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|-----|---|--------------------------------|
| 13. | Notice of Intended Action--Chapter 22, Construction Permits Exemptions | Allan Stokes (Decision) |
| 14. | Notice of Intended Action--Chapter 22, New Source Review - SO ₂ Nonattainment Areas | Allan Stokes (Decision) |
| 15. | Notice of Intended Action--Chapters 135 and 133, Underground Storage Tanks Risk Based Corrective Action Rules | Allan Stokes (Decision) |
| 16. | Notice of Intended Action--Chapter 22, Air Quality Budget Rules | Allan Stokes (Decision) |
| 17. | Petition for Declaratory Ruling--Larry L. Bennett | Allan Stokes (Decision) |
| 18. | Contested Case Appeal--Welch Oil, Inc. | Allan Stokes (Decision) |
| 19. | Referrals to the Attorney General | Allan Stokes (Decision) |
| | a) Paul Klocke (Carroll County) | |
| | b) Monroe County Board of Supervisors | |
| | c) David Lerud (Plantation Village Mobile Home Park - Burlington) | |
| | d) City of Perry | |
| | e) Orrie's Supper Club, Inc./Joe Karkosh (Voorheis) | |
| | f) Harold Lee (Keokuk County) | |
| | g) Thomas Buckley (Howard County) | |
| 20. | Notice of Intended Action--Chapter 65, Animal Feeding Operation Plans and ACCO Committee Report | Don Paulin (Decision) |
| 21. | 1996 Legislation | Don Paulin (Information) |
| 22. | General Discussion | |
| 23. | Address Items for Next Meeting | |

Next Meeting Dates

November 20, 1995

December 18, 1995

January 16, 1996 (Tuesday)

ENVIRONMENTAL PROTECTION COMMISSION

Monday, October 16, 1995

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

Helen F Mahler	Sierra Club	Des Moines, IA
Robin Fortney	MidAmerican Energy	DM
Rick Kelley	UHL	DM
Betty Sullivan		Weldon, Ia
Bill Beckman	EEC	Hoxley, Ia
Rafel Johnson		Blomfield Iowa
Jerry Flint	Monsanto	Des Moines, IA
Kyan Juliese	Welch, Oil	Voss Falls
Carlos Jarama	United Methodist Church	Des Moines
Barb Grabner	PrairieFire	Des Moines
Paul Grote		Carroll, Ia
Robert W. Heller		" "
Eugene Puder		Carroll Ia
Charles Thier		Carroll Ia
Gene Weir		Elma, Ia
Tom Buckley		Elma, IA
Kathy Buckley		

ENVIRONMENTAL PROTECTION COMMISSION

Monday, October 16, 1995

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

Dave Smitherman

Ia. Petroleum Council

DSM

DAVE KOCH

LEAGUE of IOWA CITIES/TERRAON

BETENDORF

Pauline Danner

RIC

Woodburn

Don Danner

"

"

Perry Bremer

Dm Register

DM

LISA SEUMATZ

SEEA

Seattle, WA

Mike Haun

Fremont County Waste Systems

Hamburg, Ia

RICH HEATHCOTE

Iowa Groundwater Assoc.

DSM

LIZ Gilbert

farmer

Iowa Falls

Jane McAllister

Aulers Law Firm

DSM

Bill Kerns

Rural Improve Committee

Chariton

" "

DERBY

Peggy RASH

ABI

DSM

Jack Soener

IOWA Corn Growers Assn

WDM

Rodney Williamson

GROWMARK, INC

Bloomington, IL

DAVE VEST

U.S. EPA

Kansas City

Christopher D. Hess

Iowa Farmers Union

Nevada

Arvon Heby Lehman

IDED

DSM

Elyse Ann Henderson

LFB

DSM

Carlene Kruse

DM

Amy Christensen

Sullivan & Ward

ENVIRONMENTAL PROTECTION COMMISSION

Monday, October 16, 1995

NAME	COMPANY OR AGENCY	CITY
(PLEASE PRINT)		
Joe Johnson	Peoples Savings Bank	Elma
Rebecca Cole		Jewell Ia
Katherine Smith	Iowa CCI	Des Moines
Larry McLellan	Bradshaw Law Firm	Des Moines
Harold Lee		Webster, IA
Victor Dietz	Dietz Law Offices	Sigourney, IA
Maynard Jayne	Iowa Ca Home	Ames
Angela DeGooyer	Ia Poultry	Ames
Chris Gault	Farm Bureau	WDSM
Steve Markey	Feedstuffs	mt. Pleasant
Don Herten	monroe public Health	Albia
Paul V. Keffman	Monroe Co. Supervisor	Albia
Jim Cooper	Chariton Valley RCD	Conkrite
Dennis J. Ryan	Monroe Co BfS + Public Health	ALBIA
Low Olson	House Republican Caucus	

RECORD COPY EPC Meeting
File Name ADM-1-1-1 Oct. 1995
Secretary Initials JY

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

OCTOBER 16, 1995

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson King at 10:00 a.m. on Monday, October 16, 1995, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

Verlon Britt
Kathryn Draeger
William Ehm
Michael Fesler
Rozanne King, Chair
Charlotte Mohr, Secretary
Kathryn Murphy
Terrance Townsend

MEMBERS ABSENT

Gary Priebe, Vice-Chair

Director Wilson reported that Gary Priebe phoned and will not be able to attend today's meeting.

ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Add: Appointment - Lynn Wiese, Welch Oil, Inc. (Item #18) 11:30 a.m.
- Add: Appointment - Dennis Ryan, Monroe Co. (Item #19b) 2:45 p.m.

Director Wilson noted that a revised copy of Item #16, Air Quality Budget Rules, was placed at the Commissioner's table and should replace the original item which was in their agenda packets.

Motion was made by Michael Fesler to approve the agenda as amended. Seconded by Charlotte Mohr. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made by Terrance Townsend to approve the meeting minutes of September 18, 1995 as presented. Seconded by Michael Fesler. Motion carried unanimously.

APPROVED SEPTEMBER 18 MINUTES AS PRESENTED

Motion was made by Terrance Townsend to approve the electronic meeting minutes of September 22, 1995 as presented. Seconded by Terrance Townsend.

Rozanne King noted that in Commissione Ehm's motion he requested deleting item "I" entitled "Enforcement Action," on the last page of the rule, and that section does not show in the minutes. The minutes should be corrected to show the section that is being deleted.

Motion carried with the noted amendment.

APPROVED SEPTEMBER 22 MINUTES AS AMENDED

DIRECTOR'S REPORT

Larry Wilson, Director, distributed copies of the Midwest Interstate Low Level Radioactive Waste Compact Commission Annual Report. He also distributed an agenda for a meeting on October 23, 1995 at the Capitol and invited members of the Commission to attend. The meeting will cover discussion of compact amendments and steps necessary for legislative adoption in 1996.

FINANCIAL STATUS REPORT - YTD DIVISION EXPENDITURES

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Accompanying this item is the YTD September 30, 1995 division-level expenditure status report.

Accounting for FY95 has been completed. The DNR had an ending unobligated General Fund appropriation balance of \$102,728. Under legislation passed by the 1994 General Assembly, the DNR will retain \$41,816 of that amount to be used for technology investment and training. The ending cash balance in the Fish and Wildlife trust fund was \$4,288,552.

The budget request for FY97/8 was submitted by the statutory date of October 1, 1995 as approved by the NRC and EPC.

DIRECTOR'S OFFICE/I&E BUREAU

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 9/30/95	YTD Actual 9/30/95	Under (Over)
PERS SERV	1,004,589	1,038,827	238,930	221,146	17,784
PERS TRV IN	41,546	54,282	9,228	6,572	2,656
STATE VEHICL	4,535	7,431	1,858	826	1,032
DEPRECIATION	7,860	12,640	3,160	1,965	1,195
PERS TRV OUT	10,438	9,500	1,615	3,986	(2,371)
OFF SUPPLY	71,747	76,600	13,022	13,960	(938)
FAC MAINT SU	34	31,000	5,270	1,286	3,984
EQUIP MAINT	4,166	6,850	1,165	146	1,019
OTHER SUPPLY	63,923	58,400	9,928	20,330	(10,402)
PRINT & BIND	259,174	325,944	55,410	12,327	43,083
UNIFORMS	1,951	2,150	366	269	97
COMMUNICATIO	28,986	25,800	4,386	4,094	292
RENTALS	2,193	2,000	340	160	180
UTILITIES	187	750	128	23	105
PROF SERV	53,169	80,070	13,612	420	13,192
OUTSIDE SERV	31,516	26,550	4,514	8,626	(4,113)
ADVER PUB	0	5,000	850	0	850
DATA PROC	7,275	14,050	2,389	252	2,137
REIMBURSMENT	3,896	6,175	1,050	0	1,050
EQUIPMENT	22,464	29,724	5,053	3,695	1,358
OTHER EXP	124	2,600	442	0	442
	<u>1,619,773</u>	<u>1,816,343</u>	<u>372,714</u>	<u>300,083</u>	<u>72,631</u>

ADMINISTRATIVE SERVICES DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 9/30/95	YTD Actual 9/30/95	Under (Over)
PERS SERV	3,727,699	3,729,059	857,684	811,453	46,231
PERS TRV IN	32,873	42,850	7,285	9,686	(2,402)
STATE VEHICL	47,570	55,000	13,750	12,938	812
DEPRECIATION	68,730	75,500	18,875	17,445	1,430
PERS TRV OUT	7,148	8,500	1,445	1,485	(40)
OFF SUPPLY	339,910	355,500	60,435	61,925	(1,490)
FAC MAINT SU	2,020	16,000	2,720	67	2,653
EQUIP MAINT	46,662	53,000	9,010	2,435	6,575
OTHER SUPPLY	18,066	14,000	2,380	2,491	(111)
PRINT & BIND	25,145	23,000	3,910	3,286	624
UNIFORMS	6,031	2,500	425	356	69
COMMUNICATIO	101,812	108,100	18,377	17,599	778
RENTALS	184	500	85	0	85
UTILITIES	282	0	0	0	0
PROF SERV	52,024	70,000	11,900	19,083	(7,183)
OUTSIDE SERV	34,280	79,650	13,541	9,865	3,676
ADVER PUB	934	500	85	328	(243)
DATA PROC	44,611	91,000	15,470	47,166	(31,696)
AUDITOR REIM	169,503	175,000	29,750	0	29,750
REIMBURSEMENT	182,696	118,650	20,171	25,623	(5,453)
EQUIPMENT	199,462	169,500	28,815	54,888	(26,073)
OTHER EXP	8,484	8,658	1,472	0	1,472
LICENSES	0	50	9	0	9
	5,116,126	5,196,517	1,117,591	1,098,119	19,472

PARKS, PRESERVES AND RECREATION DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 9/30/95	YTD Actual 9/30/95	Under (Over)
PERS SERV	5,004,243	4,555,104	1,047,674	1,013,837	33,837
SEASONAL HELP	1,509,834	1,298,094	713,952	668,460	45,492
PERS TRV IN	72,955	58,550	9,954	5,457	4,497
STATE VEHICL	213,209	200,460	50,115	52,866	(2,751)
DEPRECIATION	292,147	304,150	76,038	65,775	10,263
PERS TRV OUT	4,357	7,585	1,289	2,391	(1,102)
OFF SUPPLY	55,853	37,200	6,324	7,580	(1,256)
FAC MAINT SU	517,700	570,409	182,531	123,445	59,086
EQUIP MAINT	363,110	312,298	99,935	108,885	(8,950)
AG CONS SUPP	55,354	34,035	10,891	2,626	8,265
OTHER SUPPLY	37,550	43,600	7,412	5,066	2,346
PRINT & BIND	28,417	28,000	4,760	4,508	252
UNIFORMS	37,322	34,077	5,793	6,923	(1,130)
COMMUNICATIO	97,981	105,250	17,893	19,820	(1,928)
RENTALS	42,930	38,050	12,176	13,236	(1,060)
UTILITIES	440,884	423,200	135,424	112,606	22,818
PROF SERV	52,839	105,165	17,878	1,336	16,542
OUTSIDE SERV	219,918	203,852	65,233	65,841	(608)
ADVER PUB	2,904	1,050	179	230	(52)
DATA PROC	2,846	5,000	850	158	692
REIMBURSMENT	8,012	7,375	1,254	0	1,254
EQUIPMENT	239,227	216,100	36,737	43,615	(6,878)
OTHER EXP	52	2,700	459	-9	468
LICENSES	204	697	118	0	118
	9,299,848	8,592,001	2,504,868	2,324,652	180,216

FORESTS AND FORESTRY DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 9/30/95	YTD Actual 9/30/95	Under (Over)
PERS SERV	1,801,319	1,804,191	414,964	401,848	13,116
SEASONAL HELP	81,704	122,976	67,637	21,284	46,353
PERS TRV IN	40,119	42,800	7,276	8,759	(1,483)
STATE VEHICL	66,145	86,500	21,625	15,645	5,980
DEPRECIATION	133,805	138,500	34,625	30,515	4,110
PERS TRV OUT	8,189	8,800	1,496	934	562
OFF SUPPLY	27,792	25,870	4,398	2,332	2,066
FAC MAINT SU	49,992	33,500	5,695	7,173	(1,478)
EQUIP MAINT	57,760	49,000	8,330	13,011	(4,681)
AG CONS SUPP	125,118	113,000	19,210	2,503	16,707
OTHER SUPPLY	12,826	19,900	3,383	2,076	1,307
PRINT & BIND	3,419	26,200	4,454	925	3,529
UNIFORMS	13,640	14,300	2,431	976	1,455
COMMUNICATIO	39,189	39,669	6,744	7,383	(639)
RENTALS	39,257	38,000	6,460	695	5,765
UTILITIES	30,741	36,800	6,256	3,032	3,224
PROF SERV	19,546	8,820	1,499	120	1,379
OUTSIDE SERV	57,912	60,820	10,339	7,078	3,261
ADVER PUB	176	2,000	340	28	312
DATA PROC	666	2,000	340	92	248
REIMBURSEMENT	2,580	550	94	179	(86)
EQUIPMENT	140,782	71,861	12,216	17,681	(5,465)
	<u>2,752,677</u>	<u>2,746,057</u>	<u>639,812</u>	<u>544,269</u>	<u>95,543</u>

ENERGY & GEOLOGICAL RESOURCES DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 9/30/95	YTD Actual 9/30/95	Under (Over)
PERS SERV	2,340,475	2,445,164	562,388	529,831	32,557
PERS TRV IN	18,491	51,756	8,799	1,965	6,834
STATE VEHICL	10,970	14,000	3,500	3,090	410
DEPRECIATION	18,515	20,000	5,000	2,805	2,195
PERS TRV OUT	47,982	68,787	11,694	9,486	2,208
OFF SUPPLY	29,069	36,105	6,138	8,389	(2,251)
FAC MAINT SU	428	2,200	374	58	316
EQUIP MAINT	2,810	6,550	1,114	121	993
PROF SUPPLY	1,048	3,280	558	0	558
OTHER SUPPLY	29,162	61,561	10,465	1,725	8,740
PRINT & BIND	33,907	48,300	8,211	1,443	6,768
UNIFORMS	402	1,000	170	138	32
COMMUNICATIO	39,280	46,428	7,893	6,676	1,217
RENTALS	2,764	3,100	527	1,087	(560)
UTILITIES	18,227	16,400	2,788	2,493	295
PROF SERV	955,814	1,955,824	332,490	51,953	280,537
OUTSIDE SERV	57,518	134,270	22,826	20,250	2,576
ADVER PUB	624	1,000	170	225	(55)
DATA PROC	4,492	19,530	3,320	415	2,905
REIMBURSMENT	8,164	6,635	1,128	179	949
EQUIPMENT	136,163	158,381	26,925	8,399	18,526
OTHER EXP	5,408	4,742	806	0	806
	<u>3,761,713</u>	<u>5,105,013</u>	<u>1,017,282</u>	<u>650,728</u>	<u>366,554</u>

ENVIRONMENTAL PROTECTION DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 9/30/95	YTD Actual 9/30/95	Under (Over)
PERS SERV	8,177,148	9,556,812	2,198,067	1,918,016	280,051
PERS TRV IN	55,513	130,807	22,237	9,065	13,172
STATE VEHICL	42,519	52,500	13,125	9,802	3,323
DEPRECIATION	56,720	76,500	19,125	14,055	5,070
PERS TRV OUT	72,774	193,332	32,866	15,249	17,617
OFF SUPPLY	98,251	127,557	21,685	14,228	7,457
FAC MAINT SU	3,133	4,300	731	1,122	(391)
EQUIP MAINT	16,909	19,750	3,358	1,064	2,294
PROF SUPPLY	0	1,250	213	0	213
OTHER SUPPLY	22,997	46,567	7,916	3,427	4,489
PRINT & BIND	74,754	109,600	18,632	9,436	9,196
UNIFORMS	4,773	7,600	1,292	52	1,240
COMMUNICATIO	177,611	177,850	30,235	25,930	4,305
RENTALS	87,694	119,500	20,315	22,576	(2,261)
UTILITIES	18,207	24,811	4,218	3,360	858
PROF SERV	2,667,560	6,716,468	1,141,800	155,923	985,877
OUTSIDE SERV	87,877	91,446	15,546	8,094	7,452
INTRA TRANSF	404,000	0	0	0	0
ADVER PUB	6,314	12,900	2,193	3,170	(977)
DATA PROC	189,747	217,106	36,908	15,768	21,140
REIMBURSMENT	62,713	67,600	11,492	1,195	10,297
EQUIPMENT	956,082	1,746,333	296,877	107,858	189,019
OTHER EXP	15,213	12,720	2,162	0	2,162
	<u>13,298,509</u>	<u>19,513,309</u>	<u>3,900,991</u>	<u>2,339,390</u>	<u>1,561,601</u>

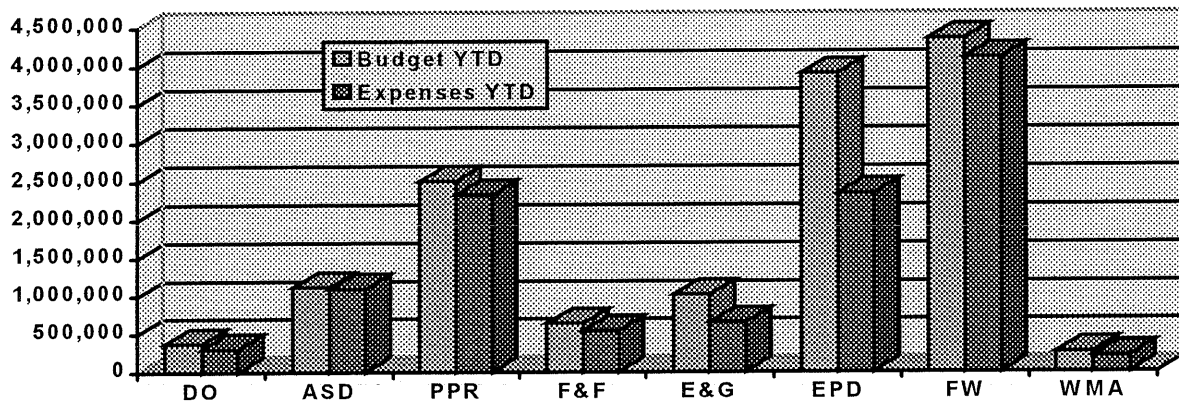
FISH AND WILDLIFE DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 9/30/95	YTD Actual 9/30/95	Under (Over)
PERS SERV	12,485,277	12,227,973	2,812,434	2,725,654	86,780
SEASONAL HELP	785,126	802,414	441,328	283,782	157,546
PERS TRV IN	371,415	355,522	60,439	67,731	(7,292)
STATE VEHICL	540,298	506,700	126,675	117,089	9,586
DEPRECIATION	680,640	753,316	188,329	170,100	18,229
PERS TRV OUT	33,831	48,400	8,228	9,127	(899)
OFF SUPPLY	276,247	303,868	51,658	43,512	8,146
FAC MAINT SU	377,293	458,687	77,977	56,948	21,029
EQUIP MAINT	451,909	350,636	59,608	113,756	(54,148)
PROF SUPPLY	0	10,000	1,700	0	1,700
AG CONS SUPP	340,020	366,258	62,264	101,204	(38,940)
OTHER SUPPLY	171,384	103,577	17,608	71,104	(53,496)
PRINT & BIND	218,479	283,625	48,216	19,798	28,418
UNIFORMS	161,845	132,575	22,538	15,046	7,492
COMMUNICATIO	293,531	204,100	34,697	51,510	(16,813)
RENTALS	57,169	65,035	11,056	8,170	2,886
UTILITIES	206,398	242,216	41,177	31,637	9,540
PROF SERV	343,892	392,780	66,773	98,492	(31,719)
OUTSIDE SERV	185,806	170,362	28,962	17,972	10,990
ADVER PUB	1,883	2,600	442	11	431
DATA PROC	74,037	64,000	10,880	2,078	8,802
REIMBURSEMENT	72,133	68,450	11,637	0	11,637
EQUIPMENT	1,219,428	951,034	161,676	104,738	56,938
OTHER EXP	44,003	34,353	5,840	903	4,937
LICENSES	1,053	300	51	0	51
	19,393,097	18,898,781	4,352,190	4,110,362	241,828

WASTE MANAGEMENT ASSISTANCE DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 9/30/95	YTD Actual 9/30/95	Under (Over)
PERS SERV	766,664	782,200	179,906	161,395	18,511
PERS TRV IN	29,522	47,214	8,026	2,491	5,535
PERS TRV OUT	23,060	39,165	6,658	3,725	2,933
OFF SUPPLY	9,635	32,030	5,445	1,964	3,481
EQUIP MAINT	634	1,900	323	544	(221)
OTHER SUPPLY	24,011	45,445	7,726	4,951	2,775
PRINT & BIND	30,863	61,258	10,414	8,635	1,779
COMMUNICATIO	14,932	16,000	2,720	2,656	64
RENTALS	691	800	136	221	(85)
PROF SERV	75,578	123,897	21,062	300	20,762
OUTSIDE SERV	7,480	9,886	1,681	1,110	571
ADVER PUB	613	13,500	2,295	0	2,295
DATA PROC	4,157	4,750	808	198	610
REIMBURSEMENT	25,209	15,110	2,569	85	2,484
EQUIPMENT	14,702	63,400	10,778	23,740	(12,962)
OTHER EXP	5,796	6,650	1,131	0	1,131
	1,033,547	1,263,205	261,677	212,015	49,662

Division Expenditure Status, 9/30/95



Mr. Kuhn reviewed the monthly reports.

Chairperson King asked for an update on the bids for the scanner in the Air Program.

Mr. Kuhn indicated that General Services received bids after an extensive RFP process and the low bidder appears to be Wang, Inc. He related that Allan Stokes will soon be meeting with the air industry representatives to review the bids with them as it will be a substantial impact on the fee issue. Mr. Kuhn pointed out that of the three responses, Wang was the only one that responded to the entire proposal; the other two did not.

INFORMATIONAL ONLY

MUSCATINE RECYCLING CENTER AND TRANSFER REGIONAL COLLECTION CENTER GRANT CONTRACT

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

In FY 1994, proposals were solicited throughout the state for hosts for Regional Collection Center (RCC) grants. A RCC is a secured site or facility at which collection, sorting as to type, and packaging of hazardous materials from urban and rural households and conditionally exempt small quantity generators (CESQG) are conducted prior to transportation of these wastes to the final disposal site.

After careful evaluation the Muscatine Recycling Center & Transfer Station submitted a proposal in conjunction with the Scott Area Solid Waste Management Commission and was given preliminary approval for a RCC grant pending amendment of an existing solid waste permit.

The Muscatine Recycling Center & Transfer amended the solid waste permit to include their RCC August 1994. Construction of their RCC will take place this fall. This center hopes to begin collecting household hazardous wastes October 1, 1995 and CESQG hazardous wastes December 1, 1995.

The Muscatine Recycling Center & Transfer Station has requested a grant of \$26,950 to assist in the establishment of their mobile RCC collection unit and a forklift. The region served by this center includes Muscatine and Scott Counties.

A draft of the Scope of Work, Milestones and Budget for the contractor (Muscatine Recycling Center & Transfer Station) is attached. Approval is requested for the director to enter into a contract with the Muscatine Recycling Center & Transfer Station.

ARTICLE V. SCOPE OF WORK

The contractor shall perform in a satisfactory and proper manner the work and services outlined by this agreement.

- 5.1 **Project description.** The Contractor will establish a mobile unit, in conjunction with the Scott Area Solid Waste Management Commission for to serve as a Regional Collection Center (RCC), purchase a forklift to aid collections of household and CESQG and it's public education program within a region that serves as a minimum, Muscatine and Scott Counties.
- 5.2 **RCC operation.** The contractor will collect hazardous wastes from households as well as conditionally exempt small quantity generators (CESQG). Households shall not be directly charged for the disposal of their hazardous wastes. The RCC shall require payment from CESQGs who bring in an amount of hazardous waste greater than 10 pounds.
- 5.3 **RCC education program, households.** The RCC shall establish a public education program that will stress identification of household hazardous materials (HHM), source reduction, safer alternatives and the proper disposal of household hazardous wastes. All education activities shall be described in the monthly reports.
 - 5.3.1 The education program shall demonstrate a commitment to working with local schools also including community colleges and universities. A RCC shall provide schools with, at a minimum, resource materials to supplement current curriculum, staff time for presentations, tours of the RCC, etc.
 - 5.3.2 The education program shall demonstrate a commitment to working with local libraries. A RCC shall provide libraries with, at a minimum, resource materials, books, assistance for library information access, presentations, etc.
 - 5.3.3 The education program shall demonstrate a commitment to educating the regional population in general. One of the goals of the education program is to educate as large a percentage of the region's population as possible regarding the identification of, the proper management of and alternatives to the purchase of household hazardous materials. The program shall also provide a phone number which people may call for HHM management assistance.
 - 5.3.4 The education program shall promote retailer awareness of HHMs and the Department's Retailer's Consumer Education Program.
- 5.4 **RCC education program, Conditionally Exempt Small Quantity Generators (CESQG).** The contractor will establish an education program that will facilitate access to the appropriate technical information to assist CESQGs with source reduction, appropriate management, and disposal options for hazardous materials. All CESQG education activities shall be described in the monthly reports.
- 5.5 **Public awareness, publicity campaign.** The contractor shall initiate a communications program to inform targeted audiences about the RCC. The communications program will consist of, at a minimum, preparation and distribution of brochures to households and CESQGs at the time of project start-up and appropriate advertisements to be placed on radio, television and in area newspapers.
 - 5.5.1 **Public awareness, open house.** The Contractor shall conduct at least one open house event open to all interested parties, after the Project is operational, and will encourage media visits at other times. The Contractor shall notify the Department of the open

house no later than thirty (30) days prior to the scheduled date of the open house. The Contractor shall promote the RCC and shall inform the public of the Project and Project events through the use of newspapers and/or other media within the area serviced by the Project.

- 5.6 **Project monitoring.** The contractor shall document and monitor the source of wastes within the region including the pounds of wastes collected, estimated participation rates, and the level of revenues and expenditures associated with the Project. Monitoring results shall be reported in monthly and final reports to the Department as described in 5.9 and 5.11.
- 5.7 **Permitting.** The Contractor shall obtain a solid waste permit from the Environmental Protection Division of the Department (515-281-8941) before the Project begins.
- 5.8 **Purchases.** The Contractor agrees to make a concerted effort to award at least ten percent of all contracts which directly utilize grant funds in the purchase of supplies, equipment, construction and services to targeted businesses (minority owned businesses or women owned businesses). The Department shall release grant funds for reimbursement for eligible expenses, only after the Contractor documents in writing, a summary of efforts regarding the above mentioned targeted businesses and the Contractor receives approval from the Department. Documentation of the Contractor's efforts may take place prior to placing purchase orders for all eligible contract expenses or the Contractor may elect to submit the documentation prior to the placing of purchase orders for each additional item of equipment, supplies, construction or services.

The Contractor shall purchase any item specified in the plans costing over \$10,000 on a competitive basis if this purchase directly utilizes grant funds. The purchase of equipment will include a local cost share of the actual purchase price of the equipment as identified in Appendix A, Budget. Subject to the five-year reimbursement provision as set forth below, the title of the property purchased by the Contractor shall remain vested with the Contractor.

In the event that the Project fails or ceases operations within five (5) years after the expiration of the Term of Contract as identified on the title page of this Contract and without prior Department approval, the Department shall be reimbursed an amount equal to the estimated current fair market value for all nonexpendable tangible personal property purchased solely with funds provided pursuant to this Contract unless the failure or cessation of the project is the result of circumstances beyond the control of the contractor despite the exercise of due diligence. In the event any nonexpendable tangible personal property item or items purchased or constructed, using grant funds, are sold and proceeds from that sale are used for other than acquisition of comparable replacement items for up to five (5) years after the expiration of the Term of Contract as identified on the title page of this Contract, the Department shall be paid a percentage of the sale price equal to the percentage of grant money used in the original purchase or construction of the nonexpendable tangible personal property. For the purposes of this contract, nonexpendable tangible personal property, includes but is not limited to, vehicles, trailers, collection and processing equipment, building construction, building remodeling, and scales. For the purposes of this contract, comparable replacement items means items that maintain the intent of the Project.

- 5.9 **Monthly reports.** The Contractor shall submit monthly reports on the Project. The monthly reports are due by the 15th of every month. The monthly report shall discuss the status of the project and shall include a monthly update of the information required in the Final Report described in 5.11.

- 5.10 Pictorial history. The Contractor shall develop a pictorial history via slides of the Project complete with data on project development from early initiation through construction, start-up, and Contract completion. The pictorial history shall be of such quality necessary for conferences, trade journals, and other sources to disseminate the results of the project. Provide necessary supporting information for clarification of pictorial history subject matter. This pictorial history shall be submitted with the final report described in 5.11.
- 5.11 Final report. The Contractor shall submit a final report on the Project. The final report shall include an overview of Articles 5.1 through 5.10 with special attention given to the following items:
- 1) Information on the source of wastes within the Contractor's region including the pounds of wastes collected, collection schedule, and estimated participation rates associated with the Project. The impact of public education programs. A description of Project costs and revenues. Conclusions and recommendations regarding the Project.
 - 2) The environmental impact of the Project.
 - 3) Assessment of the viability of conducting this type of project in other regions within the State of Iowa.
 - 4) Details on all aspects of the Project during the term of the Contract, including an analysis of problems and successes encountered.
 - 5) Complete pictorial (slides) history of the Project. The pictorial history and supporting information must be of presentation quality.
 - 6) Copies of educational materials, fliers, newspaper and magazine articles, news releases, and other written, audio, and pictorial materials that educate or promote the project.

ARTICLE VI. MILESTONES

<u>DATE</u>	<u>ACTIVITY</u>
July 1, 1995	Construction of permanent building begins
September 1, 1995	RCC education program begins
September 15, 1995	Construction of permanent building ends
October 1, 1995	Collection of household hazardous waste begins
December 1, 1995	Collection of CESQG hazardous waste begins

December 1995	Forklift purchased and received
February 15, 1996	Mobile unit purchased and received
October 1, 1995	Begin data monitoring of collections
October 21, 1995	Open House Held
July 31, 1996	End data monitoring of collections
September 1, 1996	Final Report and Pictorial History due to the Department

PAYMENT AGENT AND BUDGET

Payment made to:

Muscatine Recycling Center & Transfer Station
1000 Hauser Street
Muscatine, IA 52761

ITEM	TOTAL COST	DNR GRANT	LOCAL SHARE
Mobile Unit (1/2 cost)	\$ 14,950	\$ 14,950	\$ 0
Fork Lift	\$ 12,000	\$ 12,000	\$ 0
Permanent Building	\$ 60,000	\$ 0	\$ 60,000
Total	\$ 86,950	\$ 26,950	\$ 60,000

Mr. Kuhn reviewed details of the contract.

Motion was made by Charlotte Mohr to approve the Muscatine Recycling Center and Transfer Regional Collection Center Grant Contract as presented. Seconded by Kathryn Murphy. Motion carried unanimously.

APPROVED AS PRESENTED

**FINAL RULE--CH. 101, GENERAL REQUIREMENTS RELATING TO SOLID WASTE
MANAGEMENT DISPOSAL**

Teresa Hay, Division Administrator, Waste Management Assistance Division, presented the following item.

The Commission is requested to approve the proposed rule amendments relating to requirements of Solid Waste Comprehensive Plans, Part 1. The purpose of the amendments is to implement Iowa Code subsections 455D.3(3) and 455D.3(4) pertaining to solid waste comprehensive planning areas that fail to meet the state's 25 percent waste volume reduction and recycling goal.

The proposed rule revision:

- Provides standard language to be used by a planning area to notify the public of the area's failure to meet the 25 percent waste volume reduction and recycling goal.
- Describes the public notification procedures to satisfy the notification requirement.
- Defines the document to be used by a planning area to demonstrate that the solid waste management techniques set forth in the legislation have been implemented.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 1995 as ARC 5804A. The notice of intended action stated that any interested person may make written suggestions or comments on the rules proposed in this Notice of Intended Action prior to September 13, 1995. A public hearing was held for the purpose of receiving written and oral comments on the proposed rule revision. The hearing was held:

September 12, 1995, at 1:30 p.m. at the Wallace State Office Building; 5th Floor West Conference Room; East 9th and Grand Avenue; Des Moines, Iowa.

No member of the public participated in the September 12 hearing. Two written comments were submitted. The public participation responsiveness summary for the proposed rule revision is attached.

ENVIRONMENTAL PROTECTION COMMISSION (567)

Adopted and Filed

Pursuant to Iowa Code sections 455B.304 and 455D.7, the Environmental Protection Commission amends Chapter 101, "General Requirements Relating to Solid Waste Management and Disposal," Iowa Administrative Code.

The proposed amendments describe the procedures to be used by solid waste planning areas failing to meet the state's 25 percent waste volume reduction and recycling goal in satisfying the requirements set forth in Iowa Code subsections 455D.3(3) and 455D.3(4). The requirements include notification of the public served by the planning area of the area's failure to meet the 25

percent goal. The proposed amendments also include the standard language and procedures to be used to notify the public of the planning area's failure.

Notice of Intended Action was published in the August 16, 1995 Iowa Administrative Bulletin as ARC 5804A. No member of the public participated in September 12, 1995 public hearing. Two written comments were submitted.

Minor revisions were made resulting from the comments. Included with the procedures to be used to notify the public of the planning area's failure is the requirement to mail copies of the public notice with a news release to all television and radio stations with coverage in the planning area as soon as possible, but in no case later than 60 days after formal adoption of the rule, or within 60 days from the date the department notifies the planning area that it has failed to meet the 25 percent waste volume reduction and recycling goal. The planning area is also required to submit to the department, within 30 days from the date of mailing the public notice and news release, a copy of the news release and a list of the television and radio stations that were mailed the public notice and news release.

These amendments are intended to implement Iowa Code sections 455B.304 and 455B.306 and Iowa Code chapter 455D.

The following amendments are adopted.

ITEM 1. Amend subrule 101.5(2) as follows:

101.5(2) State volume reduction and recycling goals. The goal of the comprehensive plan of each planning area of the state is to reduce the amount of materials in the waste stream, existing as of July 1, 1988, 25 percent by July 1, 1994, and 50 percent by July 1, 2000, through the practice of waste volume reduction at the source and through recycling. If at any time the department determines that a planning area has failed to meet the 25 percent waste volume reduction and recycling goal, the planning area shall, at a minimum, implement the solid waste management techniques listed in Iowa Code subsection 455D.3(4) and subrule 101.5(8).

ITEM 2. Amend rule 567-101.5(455B, 455D) by adding new subrule 101.5(8) as follows:

101.5(8) Failure to meet the 25 percent waste volume reduction and recycling goal.

a. General requirements. If at any time the department determines that a planning area has failed to meet the 25 percent waste volume reduction and recycling goal, the planning area shall, at a minimum, implement the solid waste management techniques listed in Iowa Code subsection 455D.3(4). Evidence of implementation of the solid waste management techniques shall be documented in subsequent comprehensive plans submitted to the department.

b. Public notification. The required solid waste management techniques include notification of the public served by the planning area of the area's failure to meet the 25 percent waste volume reduction and recycling goal.

(1) The planning area shall notify the public using the following standard language:

PUBLIC NOTIFICATION

(insert NAME OF SOLID WASTE PLANNING AREA)

The Iowa General Assembly mandated that the amount of waste landfilled as of July 1, 1988, be reduced by 25 percent by July 1, 1994, and by 50 percent by July 1, 2000, through source reduction and recycling activities.

The (insert name of the solid waste planning area) did not meet the state's 25 percent waste reduction and recycling goal and is now required to implement a number of waste management techniques.

Because the (insert name of solid waste planning area) did not meet the 25 percent goal, landfill users will pay 50 cents per ton in addition to the state solid waste fee of \$4.25 per ton of material landfilled. This additional fee will be applied until the (insert name of solid waste planning area) demonstrates it has attained the goal. In contrast, those planning areas meeting the goal subtract 50 cents per ton from the state solid waste fee.

The (insert name of solid waste planning area) must also do the following:

- Develop draft ordinances to be used by local governments for establishing fees that are based on volume or on the number of containers used for disposal by residents;

- Conduct an educational and promotional program to inform citizens of the manner and benefits of reducing, reusing, and recycling materials and the procurement of products made with recycled content. The program will include:

 - Targeted waste reduction and recycling education for residents, including multi-family dwelling complexes having five or more units;

 - An intensive one-day seminar for the commercial sector regarding the benefits of and opportunities for waste reduction and recycling;

 - Promotion of recycling through targeted community and media events;

 - Recycling notification and education packets to all new residential, commercial, and institutional collection service customers that include, at a minimum, the manner of preparation of materials for collection, and the reasons for separation of materials for recycling.

Everyone - businesses, industries, schools, governments, and citizens - must work together to reduce the amount of valuable resources being landfilled.

To find out how you can help to reduce waste and to participate in the activities listed above, please contact (insert name of contact person) at (insert number of contact person).

The (insert name of the solid waste planning area) includes (insert names of participating local governments - cities and counties).

(2) The planning area shall notify the public using the following procedures:

Publication of the notice in not less than a one-quarter page format in a daily newspaper(s) of general circulation in each county within the planning area as soon as possible, but in no case later than 60 days after formal adoption of this rule, or within 60 days from the date the

department notifies the planning area that it has failed to meet the 25 percent waste volume reduction and recycling goal.

If counties served by the planning area are not served by a daily newspaper(s) of general circulation, notice shall instead be given by publication in a weekly newspaper(s) of general circulation in each county within the planning area.

Copies of the public notice shall also be mailed with a news release to all television and radio stations with coverage in the planning area as soon as possible, but in no case later than 60 days after formal adoption of this rule, or within 60 days from the date the department notifies the planning area that it has failed to meet the 25 percent waste volume reduction and recycling goal.

(3) The planning area shall submit to the department, within 30 days from the date of publication of the public notice, proof of publication from the newspaper(s) used to satisfy this requirement.

The planning area shall also submit to the department, within 30 days from the date of mailing the public notice and news release, a copy of the news release and a list of the television and radio stations that were mailed the public notice and news release.

Date

Larry J. Wilson, Director

(A copy of the Responsiveness Summary is on file in the department's Records Center)

Ms. Hay reviewed details of the rule and changes made as a result of public comment.

Discussion followed regarding the source of the data collected.

Charlotte Mohr asked what percentatge of the landfills did not attain the 25% required reduction.

Ms. Hay responded that just under one-half of the planning areas did not reach the 25% goal.

Terrance Townsend expressed concern that communities have to notify all TV and radio stations in the covered area of their failure to meet the goal. He related that it may be difficult to find a list of all the stations in the area.

Ms. Hay indicated that listings of the radio and TV stations are readily available, adding that the I & E Bureau has a listing of all newspapers, radio and TV stations in the state. Ms. Hay noted that the suggestion for public notification came from a local area planner who felt strongly that the citizens of those areas should understand what their local governments were, or were not, doing to meet the goals. She added that even though the news release is sent out it does not guarantee that every station will pick it up, it is up to the individual newspapers and stations to use what they want.

Motion was made by Kathryn Murphy to approve Final Rule--Chapter 101, General Requirements Relating to Solid Waste Management Disposal. Seconded by Verlon Britt. Chairperson King requested a roll call vote. "Aye" vote was cast by Commissioners Mohr, Murphy, Britt, Draeger, Ehm, Fesler, King. "Nay" vote was cast by Commissioner Townsend. Motion carried on a vote of 7-Aye to 1-Nay.

APPROVED AS PRESENTED

LANDFILL ALTERNATIVES FINANCIAL ASSISTANCE CONTRACT (SKUMATZ)

Teresa Hay, Division Administrator, Waste Management Assistance Division, presented the following item.

The contract for Skumatz Economic Research Associates, Inc. and Fremont County Waste Systems is presented to the Commission for approval. This contract did not receive approval at the September 1995 meeting and has been revised to address the concerns of the Commission.

This project involves Iowa's first weight-based fee structure for the collection of solid waste. Solid waste from each household will be weighed at the curb providing customers and local officials with a precise measurement of solid waste generation. Such specific information allows local officials to target special waste reduction and recycling education efforts to specific locations. Households that reduce the amount of solid waste set out at the curb, through efficient purchases and recycling, receive an immediate monetary reward (lower cost). Weight-based systems are more responsive to household's waste reduction and recycling efforts than are volume-based systems. Weight-based systems provide an economic incentive for every pound of solid waste reduced whereas it takes a full garbage container reduction before the household realizes any cost savings under a volume-based system.

Information provided under this contract, including the implementation guide handbook, will serve as the basis upon which other weight-based collection programs can be initiated across the state. The project will provide information on such items as: household attitudes, amount and type of recyclables collected, the change in solid waste generation (landfill diversion), review of weight-based collection equipment, and a benefit/cost analysis including a comparison to volume-based and flat fee structures, etc. The implementation guide handbook will detail steps local officials and solid waste haulers must take to institute a successful program.

The above information and contract reporting items not listed, are necessary to assist Iowans achieve solid waste reduction goals.

Skumatz Economic Research Associates, Inc.
and Fremont County Waste Systems

\$126,000
 \$42,000

Grant
 Loan

ARTICLE V. SCOPE OF WORK

5.1 **Project Description.** The Contractor will implement a weight-based pilot program for the collection of solid waste and implement a drop-off recycling program for residents impacted by the Project.

5.2 **Markets and Materials.** Materials to be diverted from a sanitary landfill resulting from the Project include: materials typically found in the residential waste stream. Landfill diversion is expected to be the result of decreased generation and increased recycling.

A written listing of markets for recyclables collected through the drop-off program shall be reported to the Department on forms provided in Appendix B of this Contract. Landfill diversion impacts shall be reported in the monthly and quarterly reports and the interim report as described in Article V, Sections 5.4, 5.7, 5.9 and Article VII, Sections 7.1 and 7.3.

5.3 **Public Awareness and News Media.** The Contractor shall conduct at least one multi-media notified open house event open to all interested parties, after the Project is operational, and will encourage media visits at other times. The Contractor shall notify the Department of the open house no later than thirty (30) days prior to the scheduled date. The Contractor shall inform the public of the Project and promote the project site and project events through the use of newspapers, newsletters, and/or other media within the area served by the Project.

Public Awareness and Education. The Contractor shall develop an education program prior to project implementation targeting residential customers of Fremont County Waste Systems of project operations including information relative to the recyclables drop-off program and shall develop and make available general project information to other communities in Iowa through press releases and newspaper and newsletter articles. The Contractor shall also make a concerted effort to host at least one public meeting, publicized and open to the public, or speak at a conference, workshop, or similar event, to discuss the Project. Brochures that are developed promoting the Project shall be made available throughout the Project Area and provided to the Department as part of the reporting requirements identified in Article V, Sections 5.7 and 5.9 and Article VII, Sections 7.1 and 7.3.

5.4 **Project Monitoring.** The Contractor shall document and monitor, at a minimum, items identified in Article V, Sections 5.2, 5.3, 5.5, 5.6, 5.8, and 5.9. Specific items to be monitored and reported in monthly and quarterly reports include: a) set out survey methods, calculations, and results; b) customer attitude survey methods, calculations, and results; c) performance evaluation of collection equipment; d) impact on per stop and overall collection times; e) amount of solid waste collected; f) location of recycling drop-boxes and type and amounts of recyclables collected; g) markets or processors of the recyclables and market revenues received for collected recyclables; h) amount and types of contaminants collected through the drop-off program and actions taken to reduce the amount of contamination; i) activities/status of implementing curbside recyclables collection. Applicable items identified in Appendix B shall also be monitored and reported in monthly and quarterly reports.

5.5 **Permitting.** The Contractor shall contact the Environmental Protection Division of the Department (515-281-8941) to determine if a permit or permit amendment is necessary from the Department. If a permit or permit amendment is required, the Contractor shall prepare detailed plans for the Project. The Contractor will submit plans and specifications for the Project to the Environmental Protection Division of the Department and shall receive approval from the

Department before operation of the Project begins. If the Department determines that a permit or permit amendment is not necessary, a written confirmation from the Department must be provided.

5.6 Purchases. The Contractor agrees to make a concerted effort to contract at least ten percent of all purchases which directly utilize Landfill Alternatives Financial Assistance Program funds in the purchase of supplies, equipment, construction and services with targeted businesses, minority owned businesses or women owned businesses. The Department shall release Project funds for reimbursement for eligible expenses, only after the Contractor documents in writing, a summary of efforts and the Contractor receives approval from the Department. Documentation of the Contractor's efforts may take place prior to placing purchase orders for all eligible contract expenses or the Contractor may elect to submit the documentation prior to the placing of purchase orders for each additional equipment, supplies, construction and services.

The Contractor shall purchase eligible items costing over \$10,000 on a competitive basis if this purchase directly utilizes Landfill Alternatives Financial Assistance Program funds. The Contractor shall keep on file at the project site all bid documents, price quotes and other materials documenting the competitive bid process was adhered to until the expiration of the Term of Contract as identified on the title page of the Contract. These bid documents, price quotes and other materials documenting the competitive bid process shall be made available upon request for review by the Department or its advisors. The purchase of nonexpendable tangible personal property will include a local cost share of the actual purchase price of the nonexpendable tangible personal property expenses as identified in Appendix A, Budget. Subject to the five-year reimbursement provision as set forth below, the title of the property purchased by the Contractor shall remain vested with the Contractor.

In the event that the Project fails or ceases operations as originally proposed for up to five (5) years after the expiration of the Term of Contract as identified on the title page of this Contract and without prior Department approval, the Department shall be reimbursed an amount equal to the estimated current fair market value for all grant funded nonexpendable tangible personal property used in the performance of this Contract. In the event any grant funded nonexpendable tangible personal property item or items purchased or constructed, in which Landfill Alternatives Financial Assistance Program funds were used, are sold and proceeds from that sale are used for other than acquisition of comparable replacement items for up to five (5) years after the expiration of the Term of Contract as identified on the title page of this Contract, the Department shall be paid a percentage of the sale price equal to the percentage of Landfill Alternatives Financial Assistance Program money used in the original purchase or construction of the nonexpendable tangible personal property. For the purposes of this contract, nonexpendable tangible personal property, includes but is not limited to, vehicles, trailers, collection and processing equipment, building construction, building remodeling, and scales. For the purposes of this Contract, comparable replacement items means items that maintain the intent of the Project.

In the event that the Project fails or ceases operations as originally proposed during the Term of Contract as identified on the title page of this Contract and without prior Department approval, may result in the withholding of any or all unspent loan funds and may be cause for the Department to terminate the Contract and declare the entire unpaid balance and costs of collection immediately due and payable.

5.7 Monthly and Quarterly Reports. The Contractor shall submit monthly reports on the Project. Monthly reports are due by the 15th of every month and shall commence with the beginning date and terminate with the ending date of Time of Performance as identified on the title page of this Contract. In place of monthly reports, quarterly reports will be due during the period of time in which loan repayments are being made and will terminate with the last loan

repayment submitted to the Department. Prepaying loan funds will not alleviate the Contractor from complying with conditions of this Contract, including reporting requirements without prior Department approval.

Monthly and quarterly reports shall discuss the status of the Project and shall include an update of all information required in Article V, Sections 5.4.

5.8 Pictorial History. The Contractor shall develop a pictorial history via slides of the Project complete with data on project development from early initiation through construction, start-up, and Contract completion. Provide necessary supporting information, a narrative, for clarification of pictorial history subject matter. The pictorial history shall be of such quality necessary for presentations at conferences, reproduction in trade journals, and other sources to disseminate the

results of the Project. One copy of this pictorial history and supporting narrative shall be submitted with the interim report described in Article V, Section 5.9 and Article VI, Milestones.

5.9 Interim Report. The Contractor shall submit an interim report on the Project. The interim report shall be submitted by the date identified on the title page of this Contract and Article VI, Milestones. The interim report shall include an overview of Article V, Sections 5.1 through 5.8 with special attention given to the following items:

- 1) Provide a detailed summary of all information required in Article V, Section 5.4. In addition, provide the following: a) landfill diversion impact resulting from the project; b) illegal dumping statistics and observations prior to project implementation, 2 months after project implementation and at the close of "Time of Performance" as identified on the title page of the contract; c) benefit/cost analysis of implementing a weight-based fee structure including a comparison to a flat fee structure and a volume based fee structure; d) the impact of public awareness and education programs. A detailed and documented description of all Project costs, including administrative and operational costs, and revenues. Conclusions and recommendations regarding the Project.
- 2) The environmental impact of the Project in terms of landfill diversion.
- 3) Assessment of the viability of conducting this type of project in other facilities, communities, counties and regions within the State of Iowa.
- 4) Details on all aspects of the Project during the term of the Contract, including an analysis of problems and successes encountered.
- 5) Complete pictorial (slides) history and supporting narrative of the Project. The pictorial history must be of presentation quality.
- 6) Copies of all educational materials, brochures, newspaper and magazine articles, press releases, public service announcements and other written, audio, and pictorial materials that educate or promote the project.

In addition to the Interim Report required and as set out above, the Contractor shall prepare a reproducible, professional quality implementation guide handbook for the implementation of Iowa community weight-based collection programs. The handbook shall be submitted to the Department by the "Time of Interim Report" date as identified on the title page of this Contract, or as amended, and shall contain, but not be limited to, the following topics:

1. Introduction

2. Discussion of flat rate, volume-based and weight-based fee structures and expected benefits
3. Methods and considerations for determining appropriate weight-based collection rates;
4. Equipment specification considerations;
5. Collection container specification considerations;
6. Customer billing considerations;
7. Pre and post set out survey and program monitoring considerations;
8. Program education and promotion considerations;
9. Crew training considerations;
10. Model weight-based ordinance; and
11. Example schedule of implementation activities.

APPENDIX A

ITEM	DNR AWARD	COST SHARE	TOTAL COST
Equipment (grant)	\$ 42,000	\$ 4,200	\$ 46,200
Containers (loan)	42,000	4,200	46,200
Existing Equipment	0	50,000	50,000
Wages (grant)	64,000	35,500	99,500
Education/Promotion materials (grant)	20,000	10,000	30,000
TOTALS	\$ 168,000	\$ 103,900	\$ 271,900

Equipment to be purchased:
 Retrofitted tipping arm (2)
 Load cell (2)
 System computer (2)

Execution of this Contract is certification that existing in-kind local match, as represented in the Budget, Appendix A, is true, correct, and accurate. If found that existing in-kind local match is being falsely represented, it may result in termination of this Contract, withholding of any or all unspent grant and/or loan funds and may be cause for the Department to declare the entire unpaid balance and costs of collection immediately due and payable.

Chairperson King stated that because this item was on the agenda last month and the Commission voted not to support it she will ask for a Motion to Reconsider.

Hearing no motion the item was not taken up.

NO ACTION TAKEN - LACK OF MOTION TO RECONSIDER

MONTHLY REPORTS

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

Mr. Murphy briefly reviewed the routine monthly reports.

(Reports are shown on the following 15 pages)

IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
October 1, 1995

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	FINAL SUMMARY TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULES REVIEW COMMITTEE	RULE EFFECTIVE
1. Ch. 22 - Background Values for PM-10 AMENDED NOTICE	6/19/95 6/19/95	7/19/95 8/16/95	8/14/95 9/05/95	*10/18/95	NOTICE *11/20/95	AMENDED *11/20/95	*12/20/95	*1/17/96	*1/24/96
2. Ch. 22 - New Source Review - Non-Attainment Areas	10/16/95	*11/08/95	*12/12/95	*12/ /95	*1/16/96	*1/16/96	*2/07/96	*3/11/96	*3/18/96
3. Ch. 22 - AQ Construction Permit Exemptions	10/16/95	*11/08/95	*12/12/95	*12/ /95	*1/16/96	*1/16/96	*2/07/96	*3/11/96	*3/18/96
4. Ch. 22 - Air Quality Budget Rules	10/16/95	*11/08/95	*12/12/95	*12/ /95	*1/16/96	*1/16/96	*2/07/96	*3/11/96	*3/18/96
5. Ch. 40, 43 - Water Supply Permit Fees	9/19/94	10/12/94	11/07/95	11/01/94 11/02/94 11/03/94 11/04/94 10/03/95 10/04/95 10/05/95 10/06/95	1/17/95	1/17/95	2/15/95	3/14/95	Delayed
6. Ch. 40, 43 - Water Supply Permit Fees	8/21/95	9/13/95	10/11/95	10/03/95 10/04/95 10/05/95 10/06/95	*11/20/95	*11/20/95	*12/20/95	*1/17/96	*1/24/96
7. Ch. 47 - Grants to Counties	7/17/95	8/16/95	9/13/95	9/07/95	*11/20/95	*11/20/95	*12/20/95	*1/17/96	*1/24/96
8. Ch. 61 - WQ Standards - Nationwide Permits	*11/20/95	*12/20/95	*1/17/96	*1/ /96	*2/19/96	*2/19/96	*2/23/96	*3/10/96	*3/15/96
9. Ch. 65 - Animal Feeding Operation Plans	10/16/95	*11/08/95	*12/12/95	*12/ /95	*1/16/96	*1/16/96	*2/07/96	*3/11/96	*3/18/96
10. Ch. 83 - Laboratory Certification	10/16/95	*11/08/95	*12/12/95	*12/ /95	*1/16/96	*1/16/96	*2/07/96	*3/11/96	*3/18/96
11. Ch. 101 - General Requirements Relating to SW Management and Disposal	7/17/95	8/16/95	9/12/95	9/12/95	10/16/95	*10/16/95	*11/08/95	*12/12/95	*12/13/95
12. Ch. 112- Infectious Waste	3/20/95	4/12/95	5/08/95	5/23/95	*11/20/95	*11/20/95	*12/20/95	*1/17/96	*1/24/96
13. Ch. 133, 135 - Underground Storage Tank - Risk Based Corrective Action Stds.	10/16/95	*11/08/95	*12/12/95	*12/ /95	*1/16/96	*1/16/96	*2/07/96	*3/11/96	*3/18/96
14. Ch. 135 - Underground Storage Tanks	7/17/95	8/16/95	9/12/95	9/06/95	*11/20/95	*11/20/95	*12/20/95	*1/17/95	*1/24/96

Monthly Variance Report						
Sept. 1995						
Item No.	Facility	Program	Engineer	Subject	Decision	Date
1	Roquette America-Keokuk	Air Quality		Permit Requirements	Approved	09/27/95
2	Taylor Construction-Clayton County	Air Quality		Landscape Waste	Approved	09/01/95
3	Belmond, City of	Wastewater Construction	Kuehl & Payer, Ltd.	Sludge Holding Tank, Aeration & Mixing	Approved	09/01/95
4	Oskaloosa, City of-Edmundson Golf Course	Wastewater Construction	Garden & Associates	Site Separation	Approved	09/14/95
5	Chestnut Street Bridge-Montgomery County	Flood Plain	Alan Estvold, County Engineer	Freeboard	Approved	09/07/95
6	ACC Chemical Co./Getty Chemical Co.-Clinton County	Wastewater Operation		Monitoring Frequency	Approved	09/12/95
7	Ottosen, City of	Watersupply Construction	Jacobson-Westergard & Associates	Construction Materials	Approved	09/25/95

Report of Hazardous Conditions

During the period September 1, 1995, through September 30, 1995, 41 reports of hazardous conditions were forwarded to the central office. Two incidents are highlighted below. A general summary and count by field office is attached. This does not include releases from underground storage tanks, which are reported separately.

Date Reported and County	Material, Amount, Cause, Location & Impact	Responsible Party	Response
09/02/95 Scott	Sixty gallons of fuel spilled into the Mississippi River near Davenport when an overfill occurred during fueling of a barge. No fish kill was observed.	Balckhawk Fleet 6721 Concord Street Davenport, Iowa	Booms were deployed in the river around the barge to contain the fuel. The fuel was then recovered from the water.
09/05/95 Marshall	Ten 1000 gallon nurse tanks were discovered to be leaking anhydrous ammonia at the Dunbar FS facility. The facility and branch offices have been subject to several incidents of vandalism. No injuries occurred.	Iowa River Farm Service 108 SW Street Toledo, Iowa	The Gilman Fire Department responded and the closed the valves on each of the nurse tanks.

Month	Substance					Mode				
	Total Incidents	Petroleum Product	Agri - Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
October	51(56)	38(37)	3(6)	10(13)	32(34)	0(0)	16(20)	0(0)	0(0)	10(2)
November	54(52)	24(34)	7(3)	23(15)	29(30)	0(3)	22(14)	3(0)	0(1)	0(4)
December	52(41)	27(30)	2(2)	23(9)	38(23)	1(0)	12(14)	0(2)	0(0)	1(2)
January	48(67)	29(47)	7(3)	12(14)	31(38)	0(1)	14(23)	1(2)	1(2)	1(1)
February	40(57)	30(38)	0(3)	10(16)	23(29)	0(2)	16(22)	0(2)	1(0)	0(2)
March	41(69)	27(42)	5(6)	9(21)	24(44)	0(0)	17(14)	0(2)	0(3)	0(6)
April	75(88)	30(39)	25(33)	20(16)	39(50)	1(0)	30(29)	1(1)	1(1)	3(7)
May	90(75)	45(28)	40(29)	5(18)	34(38)	0(5)	49(22)	2(2)	1(3)	4(5)
June	98(74)	48(39)	29(23)	21(12)	32(51)	2(0)	56(18)	2(2)	0(0)	6(3)
July	92(79)	58(51)	21(9)	13(19)	43(54)	0(2)	45(19)	2(1)	0(1)	2(2)
August	72(79)	46(55)	9(7)	17(17)	43(54)	0(1)	25(18)	1(0)	1(2)	2(4)
September	41(42)	25(26)	8(2)	8(14)	24(23)	0(2)	14(13)	1(0)	1(1)	1(3)

Total Number of Incidents Per Field Office This Period:

(numbers in parentheses for the same period in fiscal year '94)

1	2	3	4	5	6
3	4	2	2	13	17

Environmental Protection Commission Minutes

REPORT OF RELEASES FROM UNDERGROUND STORAGE TANKS

During the period of September 1, 1995 through September 30, 1995, the following number of releases from underground storage tanks were identified.

9(21)

The number in parentheses represents the number of releases during the same period in Fiscal Year 1994.

NUMBER OF LUST CLEANUPS COMPLETED

During the period of September 1, 1995 through September 30, 1995, the following number of LUST cleanups were completed:

8(983)

The number in parentheses represents the total number of LUST cleanups through September 30, 1995.

NUMBER OF LOW RISK SITES APPROVED

During the period of September 1, 1995 through September 30, 1995, the following number of low risk sites were approved:

36(818)

The number in parentheses represents the total number of low risk LUST sites through September 30, 1995.

Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Nick Cattell d/b/a Lake Vista Motel; Jerry Wells, Lucas Co. (5)	Wastewater	Prohibited Discharge	Order	9/05/95
E.L. Incorporated, Algona (2)	Solid Waste	Permit Renewal Denial	Order/Penalty \$5,000	9/05/95
Searsboro, City of (5)	Wastewater	Monitoring/Reporting; Certified Operator	Order/Penalty \$2,500	9/05/95
West Burlington, City of (6)	Wastewater	Discharge Limits	Order	9/05/95
College Springs, City of (4)	Drinking Water	Monitoring/Reporting- Bacteria, Other Inorganics; MCL- Bacteria; Public Notice	Order	9/06/95
Rittmer, Inc., DeWitt (6)	Air Quality	Asbestos	Order/Penalty \$1,000	9/20/95
Central Community School District, DeWitt (6)	Air Quality	Asbestos	Order/Penalty \$5,000	9/20/95
Jerry McElmeel d/b/a McElmeel & Sons Const., Monticello (1)	Air Quality	Asbestos	Order/Penalty \$5,000	9/20/95
Weber Construction, Inc., Cascade (1)	Air Quality	Asbestos	Order/Penalty \$4,000	9/20/95
Tri-County Bank & Trust Co., Cascade (1)	Air Quality	Asbestos	Order/Penalty \$4,000	9/20/95

Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Marvin Kruse d/b/a K & C Feeds (Luana)	UT	300	12-01-92
Don Grell d/b/a Dodger Enterprise (Ft. Dodge)	AQ	10,000	2-16-93
Duane Pospisil d/b/a Duane's Service (Lisbon)	UT	1,000	5-04-93
Franklin Raymond (Pacific Junction)	UT	300	7-07-93
*Delano's Lounge (Washington)	WS	425	9-01-93
Melvin Foubert d/b/a Mel's Repair Service (What Cheer)	UT	400	12-13-93
Stan Simmer d/b/a Tire City (Des Moines)	UT	600	12-21-93
*63-80 Cafe (Moore Oil Co.) (Malcom)	WS	200	1-20-93
William Hatch d/b/a R & R Convenience Store (Central City)	UT	2,480	2-28-93
K-Service, Inc.; Kirkendall Enterprises, et.al. (Sloan)	UT	1,440	2-28-94
Kurt & Mary Marzofka; John & Shirley Riordan (Sabula)	UT	500	3-31-94
Ida Grove Farm Supply Co. d/b/a Double Circle Farm Supply Co. (Galva)	UT	2,300	5-15-94
Leland Koster and Jim Koster (Alexander)	UT	350	6-11-94
*Home Asbestos & Lead Abatement Services (Johnston)	AQ	350	7-02-94
King Transfer, Ltd.; George B. King (Onawa)	UT	2,400	7-20-94
Central Water Works (Fort Dodge)	WS	275	8-21-94
Blanchard, City of	WS	275	8-22-94
Crawford Flats, Ltd. (Denison)	WS	275	8-25-94
Holland, City of	WS	550	8-28-94
Denmark Municipal Water Supply (Denmark)	WS	550	8-28-94
Hide-A-Way Manor (Cedar Rapids)	WS	275	8-28-94
*Terry Bealrd d/b/a Curry Environ. Services (Marion)	AQ	1,000	9-01-94
Coralville Lake Terrace Assn. (North Liberty)	WS	550	9-01-94
The Marley Pump Co. (Davenport)	WS	125	9-13-94
RHCL School (Luxemburg)	WS	125	9-14-94
Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
Orrie's Supper Club, Inc. (Hudson)	WS	275	9-19-94
Kilpeck Mobile Home Park (Muscatine)	WS	275	9-23-94
Immanuel Lutheran Church and School (Readlyn)	WS	275	9-23-94
Sunshine Homes, Inc. (Atlantic)	WS	275	9-25-94
Scenic View Estates (Decorah)	WS	275	9-25-94
Yarmouth Elementary School (Mediapolis)	WS	375	10-12-94
Batavia, City of	WS	650	10-17-94
Geils Oil Company; Lawrence P. Geils (Donnellson)	UT	3,200	10-18-94
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	10-22-94
*Dale Hall d/b/a Hall Oil Co. (Des Moines)	UT	250	11-15-94
DBM, Inc. (Cedar Falls)	AQ	10,000	11-30-94
Donald K. Schmidt (Cedar Rapids)	UT	3,000	12-27-94
Collier Oil Co.; Clark Concrete Co. (Onawa)	UT	3,300	1-22-95
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
North Coralville Lake Manor (Solon)	WS	450	3-26-95
Curry Environmental Services (Dubuque)	AQ	6,000	3-27-95
Galva, City of	WS	1,000	4-06-95
Ron Mumby (Iowa Co.)	SW	2,000	4-19-95
Jody Beaver (Cedar Co.)	SW/AQ	2,000	5-27-95
R.V. Hopkins, Inc. (Davenport)	AQ	10,000	5-29-95
Valley Heights 1st Annex (Blue Grass)	WS	550	6-05-95
Orrie's Supper Club, Inc. (Hudson)	WS	3,000	6-11-95
Rock Falls Lounge (Rock Falls)	WS	1,500	6-12-95
Dallas County Care Facility (Adel)	WS	550	6-13-95
Crestwood Acres; Mid County Water, Inc. (Toddville)	WS	375	6-13-95
Lake Vista Improvement Assn., Inc. (Solon)	WS	200	6-14-95
Kineth Hotel Corp.; Best Western Westfield (Coralville)	WS	500	7-01-95
Wieland & Sons Lumber Co. (Winthrop)	AQ/SW	3,000	7-04-95
Fremont County Sanitary Landfill (Fremont Co.)	SW	5,000	7-05-95
ESCORP Associates Ltd.; Arnold Olson (Cedar Rapids)	AQ	10,000	7-09-95
Jay Browns d/b/a Browns Service (Murray)	UT	1,272	7-10-95
David A. Dohlman d/b/a Dave's Conoco (Dumont)	UT	2,300	7-18-95
Nishna Valley Community School (Hastings)	WS	1,000	8-05-95
Oscar Hahn (Solon)	SW/AQ	2,000	8-29-95
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Sheldahl, City of	WS	200	8-30-95
Norman Klynsmas d/b/a OK One Stop Service (Hospers)	UT	2,000	9-01-95
Orville Long (Polk County)	SW	3,000	9-12-95
Bossom's Quasky Mart (Quasqueton)	WS	100	10-01-95
Ken Frese (Keokuk Co.)	SW/AQ	1,000	10-03-95
*Waste Management & Design, Inc. (Webster City)	WW	720	10-10-95
James E. Vaske (Kossuth Co.)	WW	1,000	10-21-95
Scattergood Friends School (West Branch)	WS	200	10-24-95
Carter Lake, City of	WS	200	10-25-95
Magnolia, City of	WS	200	10-25-95
Bondurant Municipal Water Supply	WS	500	10-28-95
Meadow Knolls Addition (Marion)	WS	200	10-29-95
West Des Moines, City of	WW/HC	1,000	10-30-95
Searsboro, City of	WW	2,500	11-08-95
Weber Construction, Inc. (Cascade)	AQ	4,000	11-25-95
Rittmer, Inc. (DeWitt)	AQ	1,000	11-25-95
Central Community School District (DeWitt)	AQ	5,000	11-25-95
Jerry McElmeel d/b/a McElmeel & Sons Const. (Monticello)	AQ	5,000	11-26-95
Tri-County Bank & Trust (Cascade)	AQ	4,000	11-26-95
Edward Bodenstainer (Des Moines)	UT	3,200	-----
Plantation Village Mobile Home Park (Burlington)	WW	1,000	-----
William R. Hennessey & Son, Inc. (Cedar Rapids)	UT	2,670	-----
E.L. Incorporated (Algona)	SW	5,000	-----
TOTAL		153,582	

The following cases have been referred to the Attorney General:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
OK Lounge (Marion)	WS	448	11-01-87
Richard Davis (Albia)	SW	1,000	2-28-88
Eagle Wrecking Co. (Pottawattamie Co.)	SW	300	5-07-89
*Twelve Mile House (Bernard)	WS	119	5-20-89
*Lawrence Payne (Ottumwa)	SW	425	6-19-89
William L. Bown (Marshalltown)	SW	1,000	10-01-89
Wellendorf Trust (Algona)	AQ/SW	460	2-12-90
Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Gerald G. Pregler (Dubuque Co.)	SW	1,000	9-02-90
Donald R. Null (Clinton Co.)	AQ/SW	1,000	9-06-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Fred Varner (Worth Co.)	SW	950	4-11-91
Honey Creek Camping Resort (Crescent)	WS	245	6-13-91
F.R. Thomas/F.R. Thomas, Jr. d/b/a Clair View Acres Store (Delhi)	WS	1,000	8-04-91
*M & W Mobile Home Park (Muscatine)	WW	200	8-21-91
Vern Starling (Boone Co.)	SW	440	9-15-91
Lloyd Dunton (Iowa Co.)	SW	300	11-07-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Kenneth Bode (Mills Co.)	SW	300	4-27-92
V.R. Dillingham d/b/a Barb's Service (Everly)	UT	600	5-21-92
Tandem Oak Park Associates (Ft. Dodge)	WS	405	6-03-92
Dick White (Washington County)	AQ	250	8-15-92
Rankin Roofing & Siding Co. (Knoxville)	AQ	500	11-09-92
Tony Hoyt d/b/a Lake Wilderness (Lee Co.)	SW	1,000	1-23-93
Bernard Gavin Veterinary Clinic (Wellsburg)	UT	600	5-02-92
Tim Sharp (Newton)	UT	1,000	1-25-93
David Young d/b/a Sierp Oil Co. (Casey)	UT	300	2-10-93
Carson Grain & Implement (Coggon)	UT	1,000	8-03-92
Robert Bodwell (Winterset)	UT	300	7-07-93
Louis Saak d/b/a Saak Oil Co. (Baxter)	UT	1,560	12-25-93
Smith Oil Co.; Franklin Smith (Mt. Ayr)	UT	600	3-31-94
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Economy Solar Corp. (Monticello)	AQ	100	6-01-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840	11-01-94
Wunschel Oil, et.al. (Battle Creek)	UT	6,400	11-08-94
Paul L. Dunkel (Delaware Co.)	SW	1,500	11-09-94

TOTAL 32,781

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Joe Eggers, Jr., et.al. (St. Ansgar)	SW	1,000
Hickory Hollow Water Co. (Ankeny)	WS	400
Wayne Transportation, Inc. (Greene)	WW	1,000
Mulgrew Oil Company (Dubuque)	HC	500
John Staub d/b/a Mr. Convenient (Burlington)	UT	600
Charles Kerr (Sloan)	UT	600
Stringtown Country Cafe (Lenox)	WS	1,000
Lincoln Farm and Home Service (Henderson)	WW	1,000
Chickasaw Co. SLF, et.al. (Chickasaw Co.)	SW	1,000
Plymouth Cooperative Oil Co. (Hinton)	WW	1,000
LaVerne Rehder (Union)	UT	300
Randy Bonin/Vickie Brannick (Hardin Co.)	SW	500
Dean Hoeness d/b/a Hoeness & Sons (Winterset)	UT	300
Decatur, City of	UT	600
King's Terrace Mobile Home Court (Ames)	WW	500
ITWC, Inc. (Malcom)	AQ	1,000
Lloyd Decker (Floyd Co.)	SW	1,000
Waucoma, City of	WS	200
Tracy Below (Hardin Co.)	WW	1,000
Grand Laboratories, Inc. (Larchwood)	WW	1,000
Frank Hulshizer (Benton Co.)	SW	500
Chicago/Northwestern Transp. Co. (Council Bluffs)	HC	1,000
Pirelli Armstrong Tire Corp. (Polk Co.)	SW	1,000
Land Renu, Inc. (Rockwell City)	SW	1,000
LeMars, City of	WW	5,000
Crane Co. d/b/a Crane Valves (Washington Co.)	SW	500
Donald Udell (Plymouth Co.)	SW	1,000
Daisy H. Gridley Conservatorship, et.al. (Union Co.)	SW	1,000
Mel-Ray Mobile Home Park (Ankeny)	WW	500
Thomas L. Burt, et. al. (Butler Co.)	SW	1,000
Oakwood Park Water, Inc. (Ankeny)	WS	1,000
U.S. Dept. of Defense (Sioux City)	UT	5,720
Blue Spruce Feedlots, Inc. (Pottawattamie Co.)	WW	5,000
Valley Restaurant/Sierp Oil/Mary & Carl Sierp (Villisca)	UT	5,000
Valley Restaurant/Sierp Oil/Robert Radford (Villisca)	UT	2,300
Orlo Stewart, et.al. (Webster Co.)	SW	1,000
J.P. Scherrman, Inc. (Farley)	UT	1,160
Lester D. Davis & Evelyn McKelvogue (Warren Co.)	AQ/SW	5,000
Waverly Gravel & Ready-Mix aka Shell Rock Sand & Gravel (Shell Rock)	AQ	3,000
Anderson Excavating & Wrecking Co. (Waterloo)	AQ	1,000
Farmers Hybrid Companies, Inc. (Keokuk Co.)	WW	3,500
L.F. & Betty Everett; Vern Barker & Donald Knotts, d/b/a Barker & Knotts Construction; and Gene Phillips (Ottumwa)	AQ	10,000
Eli Shada (Anamosa)	UT	1,328
James and Robert Brock d/b/a B & B Oil (Ringsted)	UT	1,685
M and D Tire Processing, Inc. (Decatur Co.)	SW	10,000

Merrill, City of	AQ	5,000
Harold Lee (Keokuk Co.)	WW	3,300
Riverside Plating Company (Shell Rock)	WW	1,500
Economy Solar Corp. (Monticello)	AQ	5,000
Toys "R" Us, Inc. (Davenport)	UT	5,560
Coastal Mart, Inc.-Store #1081 (Davenport)	UT	5,320
John Deere Company (Waterloo)	AQ	1,000
Parkwest, Ltd.; Wilbur Numelin; Ricky Lee Anderson (Clear Lake)	UT	2,280
Country Stores of Carroll, Ltd.; Roger Kanne (Carroll)	UT	10,000
Elite, Ltd.; Roger Kanne; James Pietig (Coon Rapids)	UT	3,500
Elite, Ltd.; Roger Kanne; James Pietig (Logan)	UT	3,288
HiWay Texaco, Ltd.; Roger Kanne; Rick Kanne (Bagley)	UT	5,000
Galva Union Elevator Co. (Galva)	UT	3,100
Farmers Hybrid Companies, Inc. (Hamilton Co.)	WW	4,000
Joseph L. Ranker; Daryl Hollingsworth (Indianola)	UT	4,000
Larry and Kelly Miller (Ogden)	UT	2,000
K-Mart Corporation/Store #7261 (Des Moines)	UT	6,000
R.D.J. Farms; Donald Vogt (Van Horne)	UT	1,300
Home Oil Stations; Otto-Matic; Larence Otto (Burlington)	UT	3,000
Tom Wiseman (Sheffield)	UT	3,500
Village Oaks Homeowners Assn. (Blue Grass)	WS	550
Karl and Thelma Boylan d/b/a Boylan's Service (Northboro)	UT	1,800
Thomas M. Scheetz d/b/a The Depot Food N' Fuel (Oxford)	UT	2,300
William Jensen d/b/a B & B Tire & Oil Co. (Avoca)	UT	2,300
Riverview Estates (Iowa City)	WS	275
Crabtree Lake Resort (Rhodes)	WW	5,400
Elmer R. Faust d/b/a Faust Garage & Grocery (Delaware)	UT	2,300
American Coals Corporation-Site #5 (Bussey)	SW/AQ	10,000
H.E.W., Inc. a/k/a Hazardous Environmental Wastes, Inc., a/k/a Algona Roofing & Insulation, Inc. (Algona)	AQ	5,000
Bankston, City of	WS	550
Wunschel Oil, et.al. (Ida Grove)	UT	10,000
Burke Marketing Corporation (Nevada)	WW	5,000
Chicago & North Western Transportation Co. (Clay Co.)	WW/SW	10,000
Jim Foust (Indianola)	SW	2,175
Titan Wheel International, Inc. (Walcott)	WW	10,000
Ronald Sizemore and Mark Murphy (Eldora)	UT	3,200
First United Methodist Church (Ft. Madison)	AQ	10,000
Mike Murphy d/b/a Hawley Heating & Air (Keokuk)	AQ	10,000
Boomsma's Egg, Inc. (Alden/Galt)	AQ	10,000
George Dolan (Northwood)	UT	3,300
Chuck Widner, Jr. d/b/a E.D.O., Inc. (Glidden)	AQ	2,000
Woodbury County Highway Department (Woodbury Co.)	UT	4,000
Keith Owens and Howard Maurer (Wilton)	UT	3,100
Tom Babinat d/b/a Tom's Car Care (Grundy Center)	UT	3,600
Welch Oil, Inc. (Williams)	UT	10,000
Richard Beckett (Villisca)	UT	1,300
Gilmore City-Bradgate Comm. School Dist. (Gilmore City)	AQ	6,000
Henry and Randy Krohn d/b/a Krohn Const. (Waukee)	AQ/SW	4,000
James and Roxann Neneman; J & R Mini Mart (Council Bluffs)	UT	3,900
Simonsen Industries, Inc. (Cherokee Co.)	WW	5,000
Hubert Vote d/b/a Vote House Moving (Gilmore City)	AQ	6,000
Allan Brandhoij d/b/a Brandhoij Const. (Gilmore City)	AQ	6,000
Dennis Sharkey d/b/a Sharkey Bldg. Wrecking (Dubuque)	AQ	6,000
Richard Waugh d/b/a Dick's Apco Car Wash (Hampton)	UT	885
Sale-R-Villa Const., Inc. (Perry)	AQ	10,000
Woden-Crystal Lake Comm. School District (Crystal Lake)	AQ	10,000
Lehigh Portland Cement Co. (Mason City)	AQ	10,000
Otis Schultz d/b/a Schultz Oil Co. (Sac City)	UT	2,200
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Larry Royer (Guthrie Co.)	WW	1,000
Randy Ballard (Fayette Co.)	FP	2,000
Perry, City of	WW	10,000
Bacon Addition (Monticello)	WS	375
Riverview Manor (Scott Co.)	WS	375
Sioux City, City of	AQ	10,000
Dan Schwitters; Schwitters Enterprises (Cedar Rapids)	UT	600
Ferris Sullivan d/b/a Sullivan's Sinclair (Preston)	UT	2,000
Leonard Bormann (Preston)	UT	2,000
Economy Solar Corp.; Jeffery C. Intlekofer (Cedar Rapids)	AQ	10,000
Marty Feinberg d/b/a Feinberg Scrap Iron; Betty Feinberg; F&F Metals (Lee Co.)	HC/WW	10,000
Marvin Rozenboom (Mahaska Co.)	SW	3,000
Keck, Inc. (Des Moines)	UT	1,500
Cumberland Ridge First Addition (North Liberty)	WS	550
West Side Unlimited Corp.; West Side Salvage (Benton Co.)	AQ/SW	5,000
Doolittle Oil Company, Inc. (Webster City)	UT	6,500
Dan Peterson d/b/a Peterson Backhoe (Dumont)	AQ	3,000
Earth Media Technologies, Inc. (Polk County)	SW	3,000
Allison-Bristow Community School District (Allison)	AQ	5,000
Allison Fire Dept.; Allison, City of	AQ	5,000
Pilot Oil Corporation (Walcott)	WW/UT	5,000
Leonard C. Page (Adams Co.)	SW	3,000
Mark Twain Meadows Assoc. (Muscatine)	WS	900
White Oaks Homeowners Assn. (Ankeny)	WS	1,000
Boyer Valley Company (Arion)	WW	8,000
Wilbur McNear; Gilbert Persinger (Smithland)	UT	2,500
Donald Krieger (Terrill)	UT	600
Donald J. Foreman d/b/a D & R Feedlots (Woodbury Co.)	WW	3,000
Rinehart Construction d/b/a North Dallas SLF (Boone Co.)	WW/SW	10,000
Wilbur McNear d/b/a McNear Oil Co. (Charter Oak)	UT	2,000
Maple Hill Country Club (Tripoli)	WS	300

*Payment Schedule

Holiday Mobile Lodge, Inc. (Johnson Co.)	SW/AQ	2,000
Kellerton, City of	WS	400
Shell Rock Products, Inc. (Butler Co.)	SW/AQ	10,000
Woden, City of	WS	500
Michael Glantz d/b/a AAMCO Transmission (Des Moines)	WW/HC	3,500
Colwell, City of	WS	200
Hanlontown, City of	WS	300
TOTAL		485,176

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
*Waste Management & Design, Inc. (Webster City)	WW	720
McDowell Dam #1 (Lee Co.)	FP	250
Woodburn, City of	WS	100
TOTAL		1,070

The \$900 penalty assessed to Louisa Courts Mobile Home Park & Sales (Muscatine) has been rescinded.

The \$1,000 penalty assessed to Winfield S. McKinney and Gary L. McKinney (Union Co.) has been rescinded.

The \$3,000 penalty assessed to TRS Industries, Inc./City of Des Moines was rescinded by court order.

**DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
October 1, 1995**

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
AMPC Lytton (3)	Wastewater	Operational Violations	Referred to Attorney General	Referred	8/10/94
Advanced Technologies Corp. Cedar Falls (1)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date	3/21/94 8/29/94 1/16/96
American Asbestos Training Center, Ltd. Monticello (3)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date	3/21/94 8/29/94 9/18/95
American Asbestos Training Center, Ltd. Cedar Rapids (1)	Updated Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date	7/22/94 8/29/94 11/06/95
Ampel Corporation Des Moines (5)	Air Quality	Construction Without Permit Permit Conditions	Referred to Attorney General	Referred Petition Filed Motion for Partial Summary Judgment DNR Motion to Disqualify Attorney Hearing Ruling/Defense Attorney Disqualified Trial Date	12/20/93 2/21/94 9/02/94 10/18/94 11/18/94 12/06/94 11/13/95
Bodwell, Robert Winterset (5)	Underground Tank	Site Assessment	Order/Penalty	Referred Petition Filed Trial Date	2/21/94 7/21/94 7/11/95

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
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October 1995

Name, Location and Region Number		Program	Alleged Violation	DNR Action	New or Updated Status	Date
Dunkel, Paul L. Delaware Co. (1)		Solid Waste	Illegal Disposal	Order/Penalty	Referred	6/19/95
Economy Solar Corp. Ft. Madison (6)	Updated	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date	3/21/94 8/29/94 12/06/95
Economy Solar Corp. Waterloo (1)	Updated	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date	3/21/94 8/29/94 1/16/96
Economy Solar Corp. Cedar Rapids (1)		Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date	7/22/94 8/29/94 10/09/95
Ervin, Don Webster County (2)		Solid Waste	Operation Without Permit	Order/Penalty	Referred Judgment for \$1,000 Execution & Order to Levy Application to Condemn Funds Partial Payment Received (\$331)	4/16/90 7/13/90 9/28/90 11/27/90 11/30/90
			Permit Violations	Referred to Attorney General	Referred Temporary Injunction Order of Contempt Order Granting Stay Contempt Reversed (Court of Appeals) Application for Further Review Supreme Ct. Reversed Ct of Appeals	9/16/91 9/18/91 12/20/91 12/26/91 9/29/92 10/16/92 2/17/93
Ervin, Don (Continued)					Order to Serve Sentence Application for Hearing Order Denying Reconsideration of Sentence Partial Consent Decree Consent Decree (\$1,000,000/Civil)	3/17/93 3/18/93 3/19/93 1/10/95 5/30/95
Giese, William Giese Construction Co. Ft. Dodge (2)		Flood Plain Wastewater	Unauth. Construction Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Trial Date	7/18/94 10/12/94 10/24/95
Harrison County Board of Supervisors (4)		Solid Waste	Operating Violations	Referred to Attorney General	Referred Petition Filed	2/21/94 7/11/94
Huyser, James; Trust Trucking Lovilia (5)		Underground Tank	Site Assessment	Referred to Attorney General	Referred	11/21/94
Jarvis, Marjorie and Terry Strong Council Bluffs (4)		Underground Tank	Closure Investigation	Order	Referred Petition Filed	11/15/93 2/14/94
Martinez, Vincent d/b/a Martinez Sewer Service Davenport (6)		Hazardous Condition	Remedial Action	Order/Penalty	Referred Petition Filed Partial Default Judgment (Injunction)	2/17/92 12/21/92 10/11/94
McCarty Creek Homeowners LeClaire (6)		Drinking Water	Monitoring/Reporting- Lead & Copper	Order/Penalty	Referred Petition Filed	10/17/94 5/02/95
Moore, Ron d/b/a 63-180 Cafe Malcom (5)		Drinking Water	Mtrg/Rprtng Nitrate; Other	Order/Penalty	Referred Payment Schedule (\$1,000/Admin.) Motion for Judgment	11/16/92 4/02/93 6/30/94
Northwood Cooperative Elevator; Worth Co. Co-op Oil Amoco v. IDNR		Hazardous Condition	DNR Defendant	Defense	Suit Filed DNR Answer Consolidation Order 215.1 Order Suit Filed DNR Answer Consolidation Order 215.1 Order Suit Filed DNR Answer Consolidation Order 215.1 Order	12/07/92 12/28/92 1/05/93 12/22/94 12/07/93 12/28/92 3/10/93 12/22/94 12/15/92 1/04/93 3/10/93 12/22/94
Rayburn Court for Mobile Homes Mason City (2)		Drinking Water	Monitoring/Reporting; Lead & Copper	Order/Penalty	Referred Petition Filed	11/21/94 5/02/95

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
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Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Reed, Verna and Don; Andrea Silsby Union Co. (4)	Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed Default Judgment	6/20/94 8/10/94 12/12/94
Relative, Inc.; Doug Smuck Des Moines (5)	Underground Tank	Insurance Violation	Order/Penalty	Referred Petition Filed	10/17/94 5/12/95
Smith, Franklin; Smith Oil Company Mt. Ayr (5)	Underground Tank	Closure Investigation	Order/Penalty	Referred Petition Filed Trial Date	4/18/94 7/25/94 5/16/95
Waterloo Community School District Waterloo (1)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date	3/21/94 8/29/94 1/16/96
Wunschel Oil Co.; Vernus, Jaquellyn & Mark Wunschel Ida Grove (3)	Tank	Underground Site Assessment	Order/Penalty	Referred	1/17/95

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
October 1, 1995

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
1-23-86	Oelwein Soil Service	Administrative Order	WM	Murphy	Hearing continued; additional testing being done.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Wornson	Settled.
10-20-88	Worth Co. Co-Op Oil Northwood Cooperative Elevator Sunray Refining and Marketing Co.	Administrative Order	HC	Murphy	Ruling on dismissal/intervention 11/16/92. Petition for Judicial Review. Judicial review hearing continued. Stipulation of dismissal being prepared.
6-08-89	Shaver Road Investments	Site Registry	HW	Kennedy	Draft consent order under review.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Kennedy	Draft consent order under review.
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Murphy	Hearing continued. Discovery initiated.
6-22-89	Chicago & Northwestern Transportation Co. Hawkeye Land Co. Blue Chip Enterprises	Administrative Order	HC	Murphy	District court affirms Dept. - 4/23/93. Iowa Supreme Court decision 2/29/95.
10-24-89	Farmers Cooperative Elevator Association of Sheldon	Site Registry	HC	Kennedy	Consent order signed.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Murphy	Hearing continued pending negotiations.
5-08-90	Texaco Inc./Chemplex Co. Site	Site Registry	HW	-----	Settlement proposed.

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
5-14-90	Alter Trading Corp. (Council Bluffs)	Administrative Order	SW	Kennedy	Negotiating before filing.
6-20-90	Des Moines, City of	NPDES Permit Cond.	WW	Hansen	EPD met with City to resolve appeal issues. Follow-up meeting to be held.
7-02-90	Keokuk Savings Bank and Trust Keokuk Coal Gas Site	Site Registry	HW	-----	Hearing continued.
7-30-90	Key City Coal Gas Site; & Howard Pixler	Site Registry	HW	-----	Decision appealed (Pixler).
8-01-90	J.I. Case Company	Site Registry	HW	Preziosi	Hearing continued.
9-12-90	Michael & Joyce Haws; George H. Gronau	Administrative Order	UT	Wornson	New party has assumed liability. Will dismiss case upon completion of SCR.
10-15-90	Westside General Store Corp.	Administrative Order	UT	Wornson	Negotiating settlement.
12-03-90	United States Gypsum Co. Smitty's Oil	Site Registry	HC	Preziosi	Negotiating before filing.
12-27-90	McAtee Tire Service, Inc.	Administrative Order	SW	Kennedy	Hearing continued.
1-07-91	Joe E. Eggers, Jr.; Joe and Mary Eggers	Administrative Order	SW	Kennedy	Hearing continued to further order.
1-28-91	McDowell Dam #1	Administrative Order	FP	Clark	Settled.
5-20-91	Great Rivers Coop--Lockridge	Site Registry	HC	Murphy	Settlement proposed.
7-24-91	Alter Trading Corp. (Davenport)	Administrative Order	SW	Kennedy	Negotiating before filing.
9-25-91	Archer Daniels Midland	Administrative Order	SW	Kennedy	Negotiating before filing.
1-17-92	Hickory Hollow Water Co.	Administrative Order	WS	Hansen	Settlement offer to WS. Counter offer 7/13/93. Dept. response on 8/3/93. Facility response 8/11/93. 12/93 Dept. letter to attorney. Construction permit issued for fluoride removal. Facility to be installed by 10/30/94.
1-30-92	Center Oil Co., Inc.	Administrative Order	HC	Murphy	Negotiating before filing.
4-09-92	Wayne Transports, Inc.	Administrative Order	WW	Murphy	Negotiating before filing.
4-15-92	Mulgrew Oil Co.	Administrative Order	HC	Wornson	Settlement letter sent 8/31/94. SCR initiated.
4-24-92	Charles A. Kerr	Administrative Order	UT	Wornson	Financial inability claimed. Warning letter sent 1/25/95.
5-05-92	Plymouth Cooperative Oil Co.	Administrative Order	WW	Murphy	Negotiating before filing.
5-12-92	Paris & Sons, Inc.	Site Registry	HC	Murphy	Negotiating before filing.
5-15-92	Heartland Lysine, Inc.	Tax Certification	AQ	Preziosi	Negotiating before filing.
5-27-92	Beckett Chevrolet-Olds	Administrative Order	UT	Wornson	Financial inability claimed. Claimant completing financial documents.
6-23-92	Chickasaw County Board of Supervisors, Chickasaw Co. SLF	Administrative Order	SW	Kennedy	Negotiating before filing.
8-06-92	Randy Bonin and Vickie Brannick	Administrative Order	SW	Kennedy	Negotiating before filing.
8-24-92	Dean Hoeness d/b/a Hoeness & Sons	Administrative Order	UT	Wornson	Financial inability claimed. Request documents.
9-21-92	ITWC	Administrative Order	AQ	Preziosi	Negotiating before filing.
9-22-92	King's Terrace MHP	Administrative Order	WW	Hansen	8/94-Letter to facility regarding resolution of appeal.
10-06-92	Lloyd Decker	Administrative Order	SW	Kennedy	Hearing continued.
11-13-92	Tracy Below	Administrative Order	WW	Clark	Hearing continued.
11-16-92	Grand Laboratories Inc.	Administrative Order	WW	Hansen	Unacceptable revised work plan submitted. Request acceptable plan by 4/29/94. Letter from facility's attorney 4/94. 5/94 letter to F.O. 3 from company regarding submittal of site assessment. 10/94 Letter to facility attorney regarding site assessment. 12/94 Letter from attorney - new work plan submitted to F.O. 3. To be sent to DIA. Hearing set for 10/06/95. Settlement discussions in progress.
11-16-92	Frank Hulseizer	Administrative Order	SW	Kennedy	Negotiating before filing.

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
October 1, 1995

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
12-14-92	Quantum	Permit Conditions	WM	Hansen	3/30/93 Dept. settlement offer made. 5/03/93 - response from company. Company collecting data. Company response submitted 12/93. EPD to review information regarding permit calculations.
1-22-93	Pirelli Armstrong Tire Co.	Administrative Order	SW	Kennedy	Negotiating before filing.
3/09-93	James, William d/b/a Bill James Agencies	Administrative Order	SW	Kennedy	Negotiating before filing.
3/11/93	Land Renu, Inc.	Administrative Order	SW	Wornson	Compliance complete. Negotiating penalty.
4/05/93	Hapleton, City of	WM Operator Certification	WM	Hansen	Under review by EPD - letter drafted.
4/12/93	LeHars, City of	Administrative Order	WM	Hansen	Plan of action submitted. Reviewed by EPD. Construction permit issued. 2/94-Schedule submitted by City for remaining construction.
4/19/93	Council Bluffs, City of	Permit Conditions	WM	Hansen	Under review by EPD.
4/21/93	Donald Udell	Administrative Order	SW	Kennedy	Negotiating before filing.
4/26/93	Crane Co.	Administrative Order	SW	Kennedy	Negotiating before filing.
6/21/93	Jacobs Energy Corp., Inc.	Permit Denial	AQ	Preziosi	Negotiating before filing.
6/29/93	Mel-Ray MHP and Sales	Administrative Order	WM	Clark	Negotiating before filing.
7/06/93 7/28/93	Dennis E. Good Berniece K. Wesse	Administrative Order	UT	Wornson	Negotiating before filing.
7/09/93	Oakwood Park Water, Inc.	Administrative Order	WS	Hansen	Proposal by facility's attorney 7/13/93. Response by Dept. 8/3/93. Response by facility 8/11/93. 12/93 Dept. letter to attorney. Construction permit issued 2/94. Facility to be installed by 11/30/94.
7/20/93	U.S. Dept. of Defense	Administrative Order	UT	Wornson	Settlement expected.
7/23/93	Blue Spruce Feedlots, Inc.	Administrative Order	WM	Clark	Negotiating before filing.
8/24/93	Green Valley Chemical	Permit Conditions	WM	Hansen	Company to do stream survey 8/94. Survey completed. Meeting to discuss survey 9/11/94. Survey being reviewed by EPD.
9/09/93	Ames Transit Authority	Permit Conditions	AQ	Preziosi	Negotiating before filing.
10/15/93	Bedford, City of	Plant Classification	WM	Hansen	Under review by EPD.
11/15/93	J.P. Scherrman, Inc.	Administrative Order	UT	Wornson	Penalty letter sent.
11/16/93	Iowa Southern Utilities	Permit Conditions	AQ	Preziosi	Settlement close.
12/13/93	Lester R. Davis and Evelyn McKelvogue	Administrative Order	AQ/SW	Kennedy	Settlement pending.
12/23/93	Maverly Gravel & Ready-Mix aka Shell Rock Sand and Gravel	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/03/94	Farmers Hybrid Co., Inc.	Administrative Order	WM	Clark	Negotiating before filing.
1/06/94	L.F. Everett and Betty Everett	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/07/94	Eli Shada	Administrative Order	UT	Wornson	Negotiating before filing.
1/13/94	James and Robert Brock d/b/a B & B Oil Co.	Administrative Order	UT	Wornson	Favorable ALJ decision. EPC affirmed.
1/18/94	M & D Tire Processing, Inc.	Administrative Order	SW	Kennedy	Settlement pending.
1/19/94	Cottage Reserve Corp.	Permit Conditions	WS	Clark	Settlement close.
1/20/94	Gene Phillips d/b/a Phillips Sanitation	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/27/94	Archer-Daniels-Midland	Permit Conditions	AQ	Preziosi	Negotiating before filing.
2/02/94	John Deere Waterloo Works	Tax Certification	WM	Hansen	Negotiating before filing.

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
2/09/94	Harold Lee	Administrative Order	WW	Clark	Negotiating before filing.
2/14/94	Economy Solar Corp 94-AQ-04	Administrative Order	AQ	Preziosi	Petition for judicial review of agency action filed.
2/15/94	Riverside Plating	Administrative Order	WW	Hansen	Settlement offer received from company regarding penalty.
2/21/94	Toys "R" Us	Administrative Order	UT	Wornson	Compliance initiated. Penalty appealed.
2/25/94	John Deere Waterloo Works	Administrative Order	AQ	Preziosi	Settlement close.
2/28/94	Coastal Mart Davenport	Administrative Order	UT	Wornson	Deficient SCR. Letter sent. Penalty on appeal.
3/03/94	Burlington Northern Railroad	Tax Certification	WW	Hansen	Negotiating before filing.
3/08/94	Country Stores of Carroll, Ltd.; Elite Ltd.; Roger Kanne; James Pietig (Logan) (Coon Rapids)	Administrative Order	UT	Wornson	All SCRs received- negotiating penalty.
4/19/94	Galva Union Elevator Co.	Administrative Order	UT	Wornson	Negotiating penalty.
5/09/94	Farmers Hybrid Co., Inc.	Administrative Order	WW	Clark	Negotiating before filing.
5/10/94	Dennis Malone; Joanne Malone	Administrative Order	UT	Wornson	Negotiating before filing.
5/27/94	Joseph L. Ranker ; Darl Hollingsworth	Administrative Order	UT	Wornson	Demand letter before DIA referral.
6/03/94	Maquoketa, City of	Administrative Order	WW	Hansen	11/4/94 Construction permit issued to facility for new facilit. Construction to begin immediately and be completed by summer of 1995. Construction of SBR units completed.
6/08/94	Larry & Kelly Miller	Administrative Order	UT	Wornson	SCR submitted. Negotiating penalty.
6/14/94	K-Mart Corp./Store #7261	Administrative Order	UT	Wornson	Compliance initiated.
6/15/94	Winfield Scott McKinney; Gary L. McKinney d/b/a Harmony Creek Farms	Administrative Order	WW	Hansen	Appeal dismissed by ALJ. Closed.
6/15/94	Lakeview Heights	Permit Conditions	WS	Hansen	Facility proposal under review by WS.
6/20/94	R.D.J. Farms and Donald Vogt	Administrative Order	UT	Wornson	Compliance initiated.
6/24/94	Griffith Oil Corp.	Administrative Order	UT	Wornson	Compliance initiated.
6/24/94	Larence Otto	Administrative Order	UT	Wornson	Compliance initiated.
7/07/94	Rose Bar Tire Shredding	Administrative Order	SW	Kennedy	In bankruptcy.
7/12/94	Tom Wiseman	Administrative Order	UT	Wornson	New case. Appeal untimely.
7/15/94	Village Oaks Homeowners	Administrative Order	WS	Hansen	Negotiating before filing.
7/21/94	Hickory Hills Subdivision	Administrative Order	WS	Hansen	3/95 letter to facility regarding appeal. 7/95 follow-up letter to facility. 9/95 Facility letter agreeing to dismissal of appeal.
7/25/94	ACC Chemical Co. Getty Chemical Co.	Permit Conditions	WW	Hansen	Hearing continued indefinitely. Appeal settled. Revised permit to be reviewed by appellants.
7/27/94	Twin View Heights 5282301	Administrative Order	WS	Hansen	11/14/94 Letter to facility regarding settlement. 12/94 Response from facility - working toward compliance. 7/26/95 facility in compliance. Dept. offer to reduce penalty.
8/12/94	Karl and Thelma Boylan d/b/a Boylan's Service	Administrative Order	UT	Wornson	Negotiating settlement.
8/18/94	Thomas Scheetz d/b/a The Depot Food & Fuel	Administrative Order	UT	Wornson	Compliance initiated.
8/29/94	Atlantic, City of	Administrative Order	WW	Hansen	Under review by EPD.
8/29/94	B and S Tire and Oil	Administrative Order	UT	Wornson	Negotiating before filing.
8/30/94	HMM Corporation	Permit Denial	AQ	Preziosi	Negotiating before filing.
9/01/94	Elmer R. Faust d/b/a Faust Garage & Grocery	Administrative Order	UT	Wornson	Compliance initiated.

October 1995

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
October 1, 1995

Protection Commission Minutes

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
9/02/94	Crabtree Lake Resort	Administrative Order	WM	Hansen	Compliance with AO initiated.
9/06/94	HEW, Inc.	Administrative Order	AQ	Preziosi	Negotiating before filing.
9/09/94	American Coals Corp.	Administrative Order	SW/AQ	Kennedy	Bankruptcy filed.
9/15/94	Bankston	Administrative Order	VS	Hansen	1/95-Information from City. Compliance initiated.
9/16/94	Wunschel Oil Co.; Vernus Wunschel; Jacquelyn Wunschel; Mark Wunschel (Ida Grove)	Administrative Order	UT	Wornson	Consent order. SCR received.
9/19/94	Burke Marketing Corp.	Administrative Order	WM	Hansen	Settled.
9/23/94	Chicago and Northwestern Transportation Co.	Administrative Order	SW/WM	Murphy	Negotiating before filing.
9/26/94	James D. Foust	Administrative Order	SW	Kennedy	Negotiating before filing.
10/07/94	Titan Wheel International	Administrative Order	WM	Hansen	Revised BMR report submitted/reviewed by WM Permits.
10/17/94	First United Methodist Church	Administrative Order	AQ	Preziosi	Negotiating before filing.
10/19/94	Ronald Sizemore; Mark Murphy	Administrative Order	UT	Wornson	Negotiating before filing.
10/25/94	Mike Murphy d/b/a Hawley Heating & Air	Administrative Order	AQ	Preziosi	Negotiating before filing.
10/26/94	Boomsma's Inc.	Administrative Order	AQ	Preziosi	Negotiating before filing.
10/27/94	George Dolan	Administrative Order	UT	Wornson	Negotiating before filing.
10/27/94	Chuck Winder d/b/a E.D.O., Inc.	Administrative Order	AQ	Preziosi	Negotiating before filing.
10/31/94	Woodbury Co. Highway Dept.	Administrative Order	UT	Wornson	Negotiating before filing.
10/31/94	Keith Owens; Howard Maurer	Administrative Order	UT	Wornson	Briefs submitted. Awaiting decision.
11/02/94	Richard Vaughn	Administrative Order	UT	Wornson	Compliance/negotiating penalty.
11/07/94	Jerry Smith; Norma S. Nelson	Permit Issuance	FP	Clark	Hearing held 7/25/95.
11/10/94	Williams Pipeline Company	Permit Denial	AQ	Preziosi	Negotiating before filing.
11/14/94	Tom Babinat d/b/a Tom's Car Care	Administrative Order	UT	Wornson	Negotiating before filing.
11/23/94	Walnut Acres Campground; Fred and Fran Iben	Permit Issuance	FP	Clark	Negotiating before filing.
11/28/94	Richard Beckett	Administrative Order	UT	Wornson	Negotiating before filing.
11/30/94	Welch Oil, Inc.	Administrative Order	UT	Wornson	Appeal set for October EPC meeting.
12/14/94	Campbell Clean-Up Service	Permit Denial	AQ	Preziosi	Negotiating before filing.
1/10/95	Steamboat Rock	Administrative Order	VS	Hansen	2/95-Settlement offer by City and response by Dept. 4/95 - Dept. letter to City regarding settlement. 5/95 - Construction approved by VS section for chlorination equipment.
1/11/95	Henry and Randy Krohn d/b/a Krohn Construction	Administrative Order	AQ/SW	Kennedy	Negotiating before filing.
1/13/95	Gilmore City-Bradgate Community School District	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/13/95	James and Roxann Neneman	Administrative Order	UT	Wornson	Inability to pay. Forms sent.
1/13/95	Simonsen Industries, Inc.	Administrative Order	WM	Hansen	2/28/95-Submittal by facility's engineer regarding land application of sludge. Under review by WM permits staff.
1/20/95	Hubert Vote d/b/a Vote House Moving	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/20/95	Allen Brandhoj d/b/a Brandhoj Construction	Administrative Order	AQ	Preziosi	Negotiating before filing.
2/14/95	Dennis Sharkey d/b/a Sharkey's Building Wrecking	Administrative Order	AQ	Preziosi	Negotiating before filing.

Environmental Protection Commission Minutes

October 1995

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
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DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
2/23/95	Woden-Crystal Lake Community School District	Administrative Order	AQ	Preziosi	Negotiating before filing.
2/23/95	Lehigh Portland Cement	Permit Conditions	WM	Hansen	Negotiating before filing.
2/27/95	Sale-R-Villa Construction	Administrative Order	AQ	Preziosi	Negotiating before filing.
3/23/95	American Coals Corp.	Administrative Order	SW	Kennedy	In bankruptcy.
4/13/95	The Weitz Corp.; Barton Solvents, Inc.	Administrative Order	HC	Kennedy	Negotiating before filing.
4/19/95	Otis Schultz d/b/a Schultz Oil Co.	Administrative Order	UT	Wornson	Negotiating before filing.
4/21/95	Randy Ballard	Administrative Order	FP	Clark	Negotiating before filing.
4/26/95	Larry Royer	Administrative Order	WM	Clark	Negotiating before filing.
4/26/95	Central Iowa Power Cooperative (CIPCO)	Permit Conditions	SW	Kennedy	Negotiating before filing.
4/28/95	Perry, City of	Administrative Order	WM	Hansen	Hearing set for 10/26/95.
5/01/95	Central Iowa Power Cooperative	Permit Conditions	SW	Kennedy	Settlement pending.
5/03/95	Bacon Addition Homeowners Assn.	Administrative Order	WS	Clark	Negotiating before filing.
5/04/95	M & W Mobile Home Park	Administrative Order	WM	Kennedy	Negotiating before filing.
5/05/95	C & O Recycling Enterprises; Douglas W. Owen	Permit Denial	AQ	Preziosi	Negotiating before filing.
5/08/95	Riverview Manor	Administrative Order	WS	Clark	Negotiating before filing.
5/09/95	Louisa Courts	Administrative Order	WS	Hansen	Facility in compliance. Settled.
5/10/95	Boone County Humane Society	Permit Denial	AQ	Preziosi	Settlement meeting 9/8/95.
5/19/95	Sioux City, City of	Administrative Order	AQ	Preziosi	Negotiating before filing.
5/23/95	Leonard Bormann	Administrative Order	UT	Wornson	Negotiating before filing.
5/25/95	Ferris Sullivan d/b/a Sullivan's Sinclair	Administrative Order	UT	Wornson	Negotiating before filing.
5/25/95	Marty Feinberg d/b/a Feinberg Scrap Iron; Betty Feinberg; F & F Metals	Administrative Order	HC/WM	Kennedy	Hearing set for 11/17/95.
5/25/95	E.I. DuPont de Nemours (95-A-133)	Permit Conditions	AQ	Preziosi	Hearing set for 10/12/95.
5/30/95	Mervin Rozenboom	Administrative Order	SW	Kennedy	Settlement pending.
5/30/95	Economy Solar Corp.; Jeffrey C. Intlekofer (95-AQ-14)	Administrative Order	AQ	Preziosi	Negotiating before filing.
5/30/95	Earth Media Technologies	Administrative Order	SW	Kennedy	Negotiating before filing.
5/31/95	E.I. DuPont de Nemours (91-A-266 thru 91-A-269)	Permit Conditions	AQ	Preziosi	Negotiating before filing.
6/05/95	West Side Unlimited Corp.	Administrative Order	AQ/SW	Kennedy	Negotiating before filing.
6/05/95	Keck, Inc.	Administrative Order	UT	Wornson	Negotiating before filing.
6/06/95	Doolittle Oil Co., Inc.	Administrative Order	UT	Wornson	Negotiating before filing.
6/07/95	Cumberland Ridge Homeowners	Administrative Order	WS	Kennedy	Negotiating before filing.
6/09/95	Don Peterson d/b/a Peterson Backhoe	Administrative Order	AQ	Preziosi	Negotiating before filing.
6/12/95	North Brady Animal Hospital	Permit Denial	AQ	Preziosi	Settlement meeting 9/8/95.
6/14/95	Salsbury Chemicals	Permit Conditions	WM	Hansen	Negotiating before filing.
6/16/95	Allison-Bristow Community School	Administrative Order	AQ	Preziosi	Negotiating before filing.
6/16/95	Allison Fire Department; City of Allison	Administrative Order	AQ	Preziosi	Negotiating before filing.

E95Oct-39

DEPARTMENT OF NATURAL RESOURCES
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DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
6/16/95	Pilot Oil Corporation	Administrative Order	WV/UT	Murphy	Negotiating before filing.
6/20/95	Toledo, City of	Permit Conditions	WV	Hansen	Negotiating before filing.
6/23/95	Leonard C. Page	Administrative Order	SW	Kennedy	Negotiating before filing.
6/29/95	White Oaks Homeowners Assn.	Administrative Order	WS	Hansen	Negotiating before filing.
7/05/95	Boyer Valley Co.	Administrative Order	WV	Hansen	Negotiating before filing.
7/10/95	Donald Krieger	Administrative Order	UT	Wornson	Negotiating before filing.
7/10/95	Gilbert Persinger	Administrative Order	UT	Wornson	Negotiating before filing.
7/13/95	Organic Technologies Corp.	Administrative Order	SW	Kennedy	Settlement pending.
7/27/95	Rinehart Construction d/b/a North Dallas Sanitary Landfill	Administrative Order	WV/SW	Kennedy	Negotiating before filing.
7/28/95	Harold T. Knott; James C. Knott	Administrative Order	UT	Wornson	Negotiating before filing.
8/01/95	Wilbur McNear d/b/a McNear Oil Co.	Administrative Order	UT	Wornson	Negotiating before filing.
8/02/95	Maple Hills Country Club	Administrative Order	WS	Hansen	Negotiating before filing.
8/18/95	Holiday Mobile Lodge, Inc.	Administrative Order	AQ/SW	Kennedy	Negotiating before filing.
8/18/95	Redmond Enterprises, Inc.	Administrative Order	UT	Wornson	Negotiating settlement.
8/23/95	Kellerton, City of	Administrative Order	WS	Clark	Negotiating before filing.
8/24/95	Shell Rock Products, Inc.	Administrative Order	AQ/SW	Kennedy	Negotiating before filing.
8/24/95	Woden, City of	Administrative Order	WS	Hansen	Negotiating before filing.
8/29/95	Iowa City, City of	Administrative Order	WV	Hansen	Negotiating before filing.
8/30/95	Sun Valley Iowa Lake Assoc.	Permit Renewal	WR	Clark	Appeal untimely. Closed.
8/31/95	Bosson's Quessy Mart	Administrative Order	WS	Hansen	Negotiating before filing.
9/05/95	Michael Glantz d/b/a AAMCO Transmissions Co.	Administrative Order	WV/HC	Murphy	Hearing set for 11/27/95.
9/06/95	Kraft Foods Inc.; Oscar Mayer Division	Variance Denial	WV	Hansen	Informal meeting set for 10/10/95.
9/12/95	Colwell, City of	Administrative Order	WS	Hansen	New case.
9/19/95	Hanlontown, City of	Administrative Order	WS	Clark	New case.
9/20/95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	Administrative Order	WV/HC	Murphy	New case.

Brief discussion followed regarding the Rulemaking Report and reference to Chapter 22, dealing with Background Values for PM-10.

INFORMATIONAL ONLY

AMENDMENT TO UHL AGREEMENT FOR FLOOD IMPACTED WATER SUPPLY SAMPLING

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission will be asked to approve an amendment to the agreement with the University of Iowa Hygienic Laboratory which was approved and entered into in February 1995.

The amendment involves expenditure of federal Stafford Relief Act grant funds for a database study of Public Water Supplies impacted by the Flood of 1993. No State funds are involved. The project will cover the period from approval of the amendment through April 30, 1996. The scope of the proposed project is to:

- use existing databases containing analytical results to conduct a statewide assessment of drinking water quality,
- evaluate the vulnerability of PWS's to regulated contaminants.

The databases will include those maintained by the Center for Health Effects of Environmental Contamination (CHEEC), IDNR, UHL, and U. S. Geological Survey. Vulnerability of ground and surface water resources will be assessed using the agricultural and manufacturer chemical registries, including vulnerability maps where applicable. UHL will attempt to identify areas which will be subjected to increased risk when extreme conditions occur, such as flooding. This information will allow the department and others to focus their attentions on the water supplies that are most vulnerable.

A draft report will be prepared on the analysis and findings by January 31, 1996. The final report will be submitted by April 30, 1996. These are separate reports from the water sample progress reports required by the basic contract. However, these additional analyses and studies are expected to be completed prior to the expiration of the base contract.

Cost of Amendment: \$54,900. Total budget for this contact: \$434,125.

Mr. Murphy presented details of the agreement noting that the Commission approved the underlying agreement at their February meeting, and this is an amendment to the original document.

Motion was made by Verlon Britt to approve the UHL Agreement Amendment for Flood Impacted Water Supply Sampling at a cost of \$54,900. Seconded by Terrance Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

Director Wilson stated that in regard to Item #7, the LAFA Grant for Skumatz, some changes were made to the contract. He related that whenever changes were made in the past, the practice has been to afford the applicants involved the opportunity to address their application. He therefore asked that Lisa Skumatz and Mike Haun be allowed to make their comments at this time.

Lisa Skumatz (LAFA grant)

Lisa Skumatz, owner of Skumatz Economic Research, Inc., stated that several changes have been made in the grant application since it was last presented to the Commission. The project proposal is to implement a hauling and baling system that leads to considerable source reduction of waste by residents. She noted that it is a more efficient system and will decrease labor, injuries, etc. Ms. Skumatz stated that pilot tests in other parts of the country show a dramatic decrease in waste the customers set out at the curb. Some related that weight based systems reduced their waste an additional 15% over the volume based system they were currently using. She expanded on details of the weight based system and urged the Commission to consider her grant application.

Mike Haun (Skumatz LAFA grant)

Mike Haun, Fremont County Waste Systems, stated that he is very excited about this project and hopes the Commission will consider it. He noted that he estimates it will be a monetary savings to his customers. He said he has concerns about volume based fee programs because of compacting bags, bags breaking, etc. He added that he thinks the weight based system seems to be the most fair method of fees and it sets up a better recycling program. Mr. Haun related that the Skumatz program will speed up collection considerably and it has the support of the mayor and the community.

Discussion followed regarding the term "waste volume reduction," waste compaction not being actual waste reduction, and how this program encourages waste reduction as well as recycling.

Verlon Britt asked if people would begin to throw their trash in the ditch rather than pay for its disposal if the program is implemented.

Ms. Skumatz stated that most studies show illegal dumping is not a big problem as it is just a small minority of communities that have such a problem. She related that any community that has experienced a problem with illegal dumping has found it to be short-lived, due to enforcement controls.

Aaron Lehman (animal feeding operation rules)

Aaron Lehman, Iowa Farmers Union, spoke about HF 519 and who must obtain a permit under this rulemaking process. He expressed concern with operators skirting the permit process by spreading their facilities far enough apart so they do not have to get a permit. He related that the

permit process is important because if an individual has a permit they are required to have a manure management plan, a professional certified engineer, and are required to pay into the indemnity fund. He added that it is extremely important that the operators above the production threshold be required to get a permit. He noted that the way to do that is to expand the definition of adjacency.

Bill Ehm asked Mr. Lehman if he is aware of the emergency rule recently passed by the Commission.

Mr. Lehman indicated that he is aware of the emergency rule but feels it is insufficient. He added that the permit process allows for the permit to be revoked if the application is not appropriately followed. The permit can be used as an enforcement tool. He also noted that with the permit process the professional engineer needs to certify that the facility can handle the amount of manure it will produce. He recommended that the concentration of feeder pigs allowed on a specific number of acres be addressed, noting that he would recommend a 2,500 foot area rather than 1,250 feet as stated in 65.1B(5)a.

Liz Gilbert (animal feeding operation rules)

Liz Gilbert, Iowa Falls farmer, addressed the Commission stating that she would echo Mr. Lehman's comments about the adjacency issue. She distributed a sheet entitled "Managing Manure Nutrients for Crop Production." She related that ISU is now coming up with the idea that perhaps phosphorus, and not nitrogen, should be the determinant in setting manure application rates. She added that ISU is changing its position on this issue and noted that the rules are coming out with a nitrogen base. Ms. Gilbert stated that in looking at density limits, Hardin County already is permitted for 100,000 hogs through the DNR process, and Wright County has over 400,000 hogs. She related that Hardin County Supervisors are looking at imposing a moratorium against more hogs. She expanded on the density factor and the manure application. She also discussed possible spills from trucks hauling manure. Ms. Gilbert stated that 1,250 feet separation distance is creating a nightmare in her area of the state.

Don Paulin, Deputy Director, stated that he would dispute Ms. Gilbert's statement that ISU is moving in the direction of phosphorus use rather than nitrogen in setting manure application rates because the ACCO Committee received their information from ISU.

Helene Mahler (livestock rules/water quality)

Helene Mahler, Sierra Club, addressed the Commission stating that water quality is one of the main concerns of Sierra Club. She related that current proposals in Congress are trying to change the Clean Water Act and deregulate 80% of Iowa's wetlands. She noted that many other states are trying to pass similar animal feeding operations rules and Sierra Club activists are working on it in all areas. Some of the issues the activists are dealing with are prohibitions of operations in certain areas. She noted that Sierra Club supports the department and the recommendations in the rule on Page 23, striking paragraph 65.6H(4)d which allows for excess

application of manure under certain testing conditions. She related that the Sierra Club also agrees with the department on Page 37, under 65.7B(2) where two lines are stricken pertaining to application rates, and on Page 39, under 65.7C(1) & (2) where nitrogen and phosphorus application rates are added as a criterion.

LAFA GRANT--SKUMATZ

Referring back to Lisa Skumatz' comments, Chairperson King asked what the Commission's wishes are in regard to Item #7, the LAFA Grant for Skumatz and Fremont County.

Director Wilson stated that in order to bring the issue for reconsideration it would need a motion by Commissioner Mohr, King, Townsend, Britt, or Fesler, as they voted with the prevailing side not to approve the item at the September meeting.

Hearing no motion, Chairperson King suggested that the proposal be brought up during the next round of grant applications in six months.

NO ACTION TAKEN - LACK OF MOTION TO RECONSIDER

NONPOINT SOURCE POLLUTION CONTROL PROJECT CONTRACTS

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission will be asked to approve two contracts for nonpoint source (NPS) pollution control projects. The contracts are for multi-year NPS projects. Funds for the contracts will be from EPA Section 319 grants awarded to the Department specifically for these projects. The project sponsors, contract amounts, project descriptions and activities supported with Section 319 funds are provided below.

- **ADW User Assistance for Nutrient and Pest Management Practice Adoption; Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship; \$133,475 (year one of a three year project)** - The project will protect and improve the groundwater quality in Humboldt, Pocahontas, and Wright Counties through the closure of surface water intakes associated with ag-drainage wells (ADWs), the adoption of nutrient and pest management practices, and the encouragement of voluntary well closure where feasible alternate outlets are available. The project will provide one-on-one assistance to ADW users in the selection of appropriate nutrient and pest management practices and the development of management plans on a field-by-field basis. Contract funds will support one full-time project coordinator and two part-time crop consultants who will assist ADW users in developing and implementing nutrient and pest management plans.

- **Multi-species Riparian Buffer Strip Demonstrations and Education Packages for the Bear Creek and Storm Lake Watersheds; Iowa State University, Leopold Center for Sustainable Agriculture; \$134,795 (three year project)** - The project will protect and improve surface water quality of Bear Creek in Story County and Storm Lake by expanding the multi-species riparian buffer strip (MSRBS) demonstration site upstream of a previously installed MSRBS along Bear Creek and by developing a MSRBS demonstration site along Powell Creek in the Storm Lake Watershed in Buena Vista County. Demonstration sites will be developed and monitored in both watersheds to show the landowners how MSRBS systems function as well as installation requirements. Bulletins and a video will be developed and field days will be conducted at each site. Contract funds will support a half-time staff position to carry out the project activities and provide up to 75% of the cost of the MSRBS.

Mr. Murphy presented details of the project contracts.

Brief discussion followed.

Motion was made by William Ehm to approve the Nonpoint Source Pollution Control Project Contracts as presented. Seconded by Verlon Britt. Motion carried unanimously.

APPROVED AS PRESENTED

PROPOSED RULE--CHAPTER 61, WATER QUALITY STANDARDS, CORPS NATIONWIDE PERMIT FOR SINGLE FAMILY HOUSING

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The commission will be provided with a draft Notice of Intended Action which would initiate rule making to grant Section 401 water quality certification for a new Corps Section 404 nationwide permit authorizing the construction of single family homes in jurisdictional waters. Section 401 water quality certification is a state water quality agency's certification that a proposed activity will not violate state water quality standards.

The nationwide permit in question became effective on September 25, 1995, subject to Section 401 certification by the individual states. The nationwide permit as published by the Corps would authorize the discharge of dredged or fill material into non-tidal waters of the United States, including non-tidal wetlands, for the construction or expansion of single family homes and attendant features (such as garages, storage sheds, and septic facilities). In general, the nationwide permit provides that construction can only impact ½ acre or less, practicable actions must be taken to minimize impacts, the home must be for a personal residence, and the nationwide permit can only be used once per parcel.

The action being proposed would grant Section 401 certification for this nationwide permit and the nationwide permit would become effective for Iowa as of the effective date of the approved rule amendment.

Mr. Murphy presented details of the proposed rules. He noted that the COE, through the rulemaking proces, is attempting to reduce categories of permitting in allowing a permit by rule.

Brief discussion followed.

INFORMATIONAL ONLY

NOTICE OF INTENDED ACTION--CHAPTER 23, LABORATORY CERTIFICATION

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission will be asked to approve the attached Notice of Intended Action proposing a new Chapter 83 which will replace in its entirety Chapter 42 pertaining to requirements for the laboratory certification program. Chapter 63 will be revised to require that laboratories performing analyses of samples for the wastewater program be certified, and references to Chapter 42 elsewhere in the rules will be changed to reflect the new chapter designation.

The purpose of this rulemaking is to further implement Code of Iowa sections 455B.113 and 455B.114 which require laboratories that perform analyses of samples required to be submitted to the department to be certified. A certification program has already been implemented for laboratories analyzing samples for the water supply and underground storage tank programs. This rulemaking will extend the certification program to include procedures for the certification of laboratories analyzing samples for the departments wastewater program. No substantive changes to the certification requirements for laboratories that analyze samples for the water supply or underground storage tank programs are proposed.

Chapter 63 of the rules defines monitoring, analytical and reporting requirements applicable to the departments wastewater program. Proposed changes to this chapter will include a requirement that laboratories be certified in accordance with Chapter 83 to perform analyses of wastewater, groundwater or sewage sludge samples which are required to be submitted to the department. This chapter will also adopt, by reference, EPA approved test methods specified in 40 CFR part 136.3 and require that these approved methods be utilized for analyses of all wastewater samples required to be submitted to the department.

(A copy of the rule is on file in the department's Records Center)

Mr. Murphy explained that this rule expands the laboratory certification program to the waste water programs, noting that it brings all rules dealing with lab certification into one chapter.

Terrance Townsend asked, in reference to 83.4(1)a, if an on-site visit does not take place within 120 days if the laboratory would no longer be temporarily certified.

Mr. Murphy noted that it states temporary certification will be effective until the on-site visit process or 120 days, whichever period is longer. He noted that the department will not cut them off if staff does not get out there within 120 days.

Motion was made by Kathryn Murphy to approve Notice of Intended Action--Chapter 23, Laboratory Certification. Seconded by Kathryn Draeger. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION--CHAPTER 22, CONSTRUCTION PERMITS EXEMPTIONS

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission will be asked to approve the attached Notice of Intended Action which proposes to amend Chapter 22 Iowa Administrative Code, "Controlling Pollution". The Commission had earlier adopted rules exempting certain new construction activities from the requirement to obtain permits prior to construction. Many existing sources of similar size and nature to those sources falling under this exemption language are applying for "after the fact" permits for the already constructed sources in order to qualify for air quality operating permits under the Clean Air Act of 1990. The purpose of this proposed rule amendment is to make the construction permit exemptions contained in subrule 22.1(2) retroactive to existing sources. This amendment also clarifies the wording of one sentence.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution," Iowa Administrative Code.

The purpose of this amendment is to make the construction permit exemptions contained in subrule 22.1(2) retroactive. This amendment also clarifies the wording of one sentence.

Items 1 and 2 delete language which prohibits construction permit exemptions from being retroactive. Deletion of that language enables construction permit exemptions to be retroactive.

Item 3 clarifies a sentence. The word "change" in the existing rule could have been interpreted to mean that the rule applied only to the increase in emissions, for purposes of modeling. Item 3 rewords the sentence to clarify that even if there is a decrease in emissions, the department must ensure that the National Ambient Air Quality standards have not been violated.

Item 4 provides a method for those claiming a retroactive exemption to provide information to the department. The current rule refers to new construction only.

Any person may make written suggestions or comments on the proposed rules on or before December 8, 1995. Written comments should be directed to Gaye Wiekierak, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, FAX (515) 281-8895.

A public hearing will be held on December 8, 1995 at 1:30 P.M. in the Fifth Floor West Conference Room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa, at which time comments may be submitted orally or in writing.

Any persons who intend to attend a public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise the Department of any specific needs.

These rules may impact small businesses.

These rules are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend subrule **22.1(2)**, first unnumbered paragraph, as follows:

22.1(2) Exemptions. The provisions of this rule shall not apply to the following listed equipment or control equipment unless review of the equipment or control equipment is necessary to comply with rule 22.4(455B), prevention of significant deterioration requirements; rule 22.5(455B), special requirements for nonattainment areas, 567--subrule 23.1(2), new source performance standards; or 567--subrule 23.1(3), emission standards for hazardous air pollutants, in which case a permit must be obtained. If equipment is permitted under the provisions of rule 22.8(455B), then no other exemptions shall apply to that equipment. ~~If a source does not have a construction permit and should have had one, this subrule does not exempt the source from the requirement to obtain a construction permit.~~

ITEM 2. Amend subrule **22.1(2)**, paragraph "g" as follows:

g. Equipment or control equipment which reduces or eliminates all emission to the atmosphere. ~~If a source does not have a construction permit and should have had one, this paragraph does not exempt the source from the requirement to obtain a construction permit.~~ If a source wishes to obtain credit for reductions under the prevention of significant deterioration requirements, it must apply for a permit for the reduction prior to the time the reduction is made.

If a construction permit has been previously been issued for the equipment or control equipment, the conditions of the construction permit remain in effect. In order to use this exemption, the facility must comply with paragraph "s" below.

ITEM 3. Amend subrule **22.1(2)**, paragraph "i", last unnumbered subparagraph, as follows:

The department reserves the right to require proof that the National Ambient Air Quality Standards have not been violated by any ~~change made when claiming this exemption to source which is being exempted from~~ the air quality construction permit requirement. If the department finds, at any time after a change has been made pursuant to this exemption, evidence of violations of any of the department's rules, the department may require the source to submit to the department sufficient information to determine whether enforcement action should be taken. This information may include, but is not limited to, any information that would have been submitted in an application for a construction permit for any changes made by the source under this exemption, and air quality dispersion modeling.

ITEM 4. Amend subrule **22.1(2)**, paragraph "s" as follows:

s. A facility claiming to be exempt under the provisions of paragraph "g" or "i" above shall provide the information listed in 22.1(2)"s" (1) through 22.1(2)"s"(8) to the department, at least 30 days in advance of the beginning of construction on the project, a written statement which shall include the following: If the exemption is claimed for a source not yet constructed or modified, the information shall be provided to the department at least 30 days in advance of the beginning of construction on the project. If the exemption is claimed for a source that has already been constructed or modified and that does not have a construction permit for that construction or modification, the information listed in 22.1(2)"s" (1) through 22.1(2)"s"(8) shall be provided to the department within 60 days of the effective date of this rule. After that date, if the exemption is claimed by a source that has already been constructed or modified and that does not have a construction permit for that construction or modification, the source shall not operate until the information listed in 22.1(2) "s" (1) through 22.1(2) "s" (8) is provided to the department.

Mr. Murphy explained that this rule basically makes retroactive a rule the Commission adopted earlier that was developed in conjunction with an advisory committee of air quality resource people. He noted that ITEM 3 should be deleted as well as the language in the Preamble that alludes to it. He explained that the clarification in Item 3 was not really a clarification and it will not be dealt with at this time.

Terrance Townsend stated that he would be in favor of approving this rule as an Emergency Adoption.

Mr. Murphy stated that EPA may have some concern with emergency rules because they have their own public participation requirements to follow too. He related that it could probably be approved by going emergency and doing a Notice of Intended Action at the same time.

Chris Hess

Chris Hess, EPA-Kansas City, stated that any type of change the state is going to make, which they want to make federally enforceable, has to have a public hearing and documentation of the public response comments. He explained that in going with emergency rulemaking those requirements are excluded and whatever is then sent to EPA would not be approved, merely because it did not have a public hearing. Mr. Hess related that he is asking that the rule go through normal procedures and that way it can be approved.

Mr. Murphy stated that Amy Christiansen has been working with staff on these rules and will speak to the Commission about it.

Amy Christiansen

Amy Christiansen, Sullivan and Ward, stated that the reason the rules need to go emergency as well as out to public comment is because Part II of the Title V Permit Application is due before the rules would be effective through the normal process. She noted that people who are submitting Part II need to know what to do. She urged the Commission to pass the rules on dual track, both as emergency and notice of intended action.

Motion was made by Terrance Townsend to approve Chapter 22, Air Quality Construction Permit Exemptions as an Emergency Adoption along with a Notice of Intended Action. Seconded by Charlotte Mohr.

William Ehm commented that this makes the third emergency rule in the same number of months and it seems it is becoming too routine, adding that he does not like the concept of running everything through as emergencies.

Director Wilson stated that the Commission has had a long-standing practice of not using the emergency rule process because it deprives the public from commentary, but it is clear that the Administrative Rules do provide for that process.

Vote on Commissioner Townsend's motion carried unanimously.

APPROVED AS EMERGENCY ADOPTION AND NOI

CONTESTED CASE APPEAL--WELCH OIL, INC.

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

On November 3, 1994, the department issued Administrative Order No. 94-UT-52 to Welch Oil, Inc. That action required the company to cease operation of petroleum underground storage tanks unless proof of financial responsibility was submitted, and to pay an administrative penalty

of \$10,000.00. That action was appealed by the company, and the matter proceeded to administrative hearing on May 19, 1995. The Administrative Law Judge issued the Proposed Findings of Fact, Conclusions of Law, and Order on July 11, 1995. The decision affirms the Order.

Welch Oil, Inc. has appealed this order to the Commission. The Proposed Decision, and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Mr. Murphy stated that this case involves an appeal of an ALJ decision which upheld an Administrative Order the department issued to Welch Oil, including a \$10,000 penalty. He noted that Lynn Wiese is present to represent Welch Oil.

Appointment - Lynn Wiese

Lynn Wiese, attorney representing Welch Oil, stated that in November 1994, the department issued an Administrative Order (AO) to Welch Oil, and it is that Order from which the appeal was taken and submitted to Judge LaMarche in May, 1995. He related that the sole appeal is with the issue of the fine being the maximum of \$10,000. Mr. Wiese noted that the relevant issue is the review of the ALJ's three areas of determination when evaluating the size of the fine. He elaborated on those three areas - economic benefit, gravity of the violation, and culpability. He noted that in October 1990, Welch Oil filed for insurance coverage and it was never put in place, which resulted in the department issuing the AO. Mr. Wiese related that the insurance premiums were sent to IUST and the money was held until a later time when the insurance application was returned. He added that Welch Oil misinterpreted the role of Terra Clean as that of being the entity to carry the ball. Judge LaMarche ruled that the economic benefit by Welch Oil so exceeds the \$10,000 limit that the company should be penalized the full \$10,000 limit. He expanded on the gravity and culpability issues. Mr. Wiese argued that although Welch Oil had saved the cost of insurance premiums, this benefit should be offset by the costs incurred for conducting an assessment of the present contamination at the site. Mr. Wiese explained that Welch Oil would have been entitled to reimbursement of those expenses through the Iowa UST Fund remedial benefit program but was denied eligibility for failure to pay insurance premiums.

Dave Wornson, Compliance and Enforcement Bureau, stated that the Commission previously adopted a rule that required UST owner/operators to have a financial responsibility mechanism in place by December 31, 1993. After October 1993, Welch Oil took out of operation three of their gasoline tanks and converted that part of the operation to above ground tanks, which do not require insurance or financial responsibility. Mr. Wornson noted that Welch Oil continued to operate their four remaining diesel tanks until the department issued an AO requiring them to cease operation of the diesel tanks, or to provide proof of financial responsibility. Welch Oil

then converted the four diesel tanks to an above ground tank system which does not require insurance. The ALJ found that Welch Oil had gained an economic benefit of \$14,700 from operating gasoline and diesel tanks for a two year period without purchasing the required insurance. Mr. Wornson discussed culpability and gravity and related that those assessments were academic because the economic benefit was in excess of \$10,000. He noted that the argument that clean up costs should offset the economic benefit is not a valid one as that is a separate issue. He related that there still was a benefit earned in not maintaining their insurance.

Discussion followed regarding the imbalance of correspondence in this case and that the department received little response from Welch Oil.

Mr. Wiese stated that when the lawyers got involved the correspondence escalated because they have access to FAX machines and secretaries, unlike an independent business person who does not have that access.

Dave Wornson pointed out that this is not a small owner/operator facility, adding that it is Boondocks, Inc. located on I-35 North.

Mr. Wiese stated that it is an oversized mom-and-pop operation and their good faith attempt to comply is self-evident.

Chairperson King reviewed the Commission's options in this case.

Motion was made by Terrance Townsend to uphold the decision of the Administrative Law Judge. Seconded by William Ehm. Motion carried unanimously.

ALJ DECISION UPHELD

NOTICE OF INTENDED ACTION--CHAPTER 22, NEW SOURCE REVIEW - SO₂ NONATTAINMENT AREAS

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission will be asked to approve the attached Notice of Intended Action which proposes to amend Chapter 22, "Controlling Pollution," Iowa Administrative Code. The purpose of these amendments is to make the department's New Source Review rules regarding Sulfur dioxide (SO₂) nonattainment areas conform with changes made by the Clean Air Act Amendments of 1990.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution," 567 Iowa Administrative Code.

The purpose of these amendments is to make the department's New Source Review rules regarding sulfur dioxide (SO₂) nonattainment areas conform with changes made by the Clean Air Act Amendments of 1990. Revision of these rules is one of the required elements of the State Implementation Plan revision made necessary by the Environmental Protection Agency's March 8, 1994, declaration that areas of Muscatine County, Iowa, are in nonattainment for the SO₂ National Ambient Air Quality Standard.

Subrule 22.5(2), "Emission offset applicability," is revised by changing the title to "Applicability" and establishing the applicability of rule 22.5 in general terms. New paragraphs 22.5(2)"a" and "b" are added outlining when the requirements of the rule apply. Former paragraph 22.5(2)"a," "Particulate matter nonattainment areas," is renumbered 22.5(2)"c," and retitled "Particulate matter." Paragraph 22.5(2)"b" is renumbered 22.5(2)"d" and the title is modified and a new introductory paragraph is inserted. Former paragraph 22.5(2) "c" is rescinded. Former paragraph "d" is moved to 22.5(3)"b."

Subrule 22.5(3), "Emission offsets," is amended by adding paragraph 22.5(3)"a" establishing the conditions under which emissions offsets are obtained from certain sources. Paragraph 22.5(3)"b," formerly paragraph 22.5(2)"d," is added. Paragraph 22.5(3)"c" pertaining to increased emissions is added. Paragraph 22.5(3)"d," establishing the timing for emissions reductions claimed as offset credit, is added. The first unnumbered paragraph of 22.5(3) is numbered as 22.5(3)"e."

Changes are proposed to paragraph 22.5(4)"a" to ensure compliance with the Clean Air Act. Paragraph 22.5(4)"b," "Offset ratio," is rescinded. Paragraph 22.5(4)"g" is replaced by "Reduction credits" conditions. Paragraph 22.5(4)"i" is rescinded and replaced by new language substantially incorporating portions of 22.5(4)"g" with portions of 22.5(4)"i" and adding additional "Shutdown or curtailment" conditions.

Subrule 22.5(5) is corrected for numbering changes. Subrule 22.5(6) is entitled "Control technology review," and a requirement that major stationary sources meet certain applicable emissions limitations is established. Minor changes are proposed to subrule 22.5(8), "Alternate site analysis." Additionally, conditions for permit approval, and public availability of information are added in new subrules 22.5(9) and 22.5(10).

Any person may make written suggestions or comments regarding the proposed amendments on or before December 8, 1995. Written comments should be directed to Catharine Fitzsimmons, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50309-0034, FAX 515-281-8895.

A public hearing will be held on December 8, 1995, at 10:00 A.M., in the Fifth Floor West Conference Room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa, at which time comments may be submitted orally or in writing.

Any persons who intend to attend a public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise the Department of specific needs.

These amendments may impact small businesses.

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend subrule 567--22.5(2) as follows:

22.5(2) ~~Emission offset applicability~~ Applicability.

a. The requirements contained in rule 22.5(455B) shall apply to any new major stationary source or major modification that, as of the date the permit is issued, is major for any pollutant for which the area the in which source would construct is designated as nonattainment (in 40 CFR 81.316, as amended through May 31, 1995).

b. The requirements contained in rule 22.5(455B) shall apply to each nonattainment pollutant that the source will emit or has the potential to emit in major amounts. In the case of a modification, the requirements shall apply to the significant net emissions increase of each nonattainment pollutant for which the source is major.

~~a. c.~~ Particulate matter nonattainment areas. If a major source or major modification is proposed to be constructed in an area designated nonattainment for particulate matter in 40 CFR §81.316 (as amended through ~~March 10, 1994~~ May 31, 1995), then emission offsets must be achieved prior to startup.

If a major source or major modification is proposed to be constructed in an area designated attainment or unclassified for particulate matter in 40 CFR §81.316 (as amended through May 31, 1995), but the modeled (EPA-approved guideline model) worst case ground level particulate concentrations due to the major source or major modification in a designated particulate matter nonattainment area is equal to or greater than five micrograms per cubic meter (24-hour concentration), or one microgram per cubic meter (annual geometric mean), then emission offsets must be achieved prior to startup.

~~b. d.~~ Sulfur dioxide nonattainment areas. If a major source or major modification is proposed to be constructed in an area designated nonattainment for sulfur dioxide in 40 CFR §81.316 (as amended through ~~March 10, 1994~~ May 31, 1995), then emission offsets must be achieved prior to startup.

If a major source or major modification is proposed to be constructed in an area designated attainment or unclassified for sulfur dioxide in 40 CFR section 81.316 (as amended through May 31, 1995), but the modeled (EPA-approved guideline model) worst case ground level sulfur dioxide concentrations due to the major source or major modification in a designated sulfur dioxide nonattainment area is equal to or greater than 25 micrograms per cubic meter (three-hour concentration), five micrograms per cubic meter (24-hour concentration), or one microgram per cubic meter (annual geometric mean), then emission offsets must be achieved prior to startup.

~~c. Emission offsets are required for carbon monoxide (CO) in carbon monoxide nonattainment areas.~~

~~d. Emission offsets for any regulated air contaminant in the designated nonattainment area shall provide for reasonable further progress toward attainment of the applicable national ambient air quality standards and provide a positive net air quality benefit in the affected area.~~

e. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

ITEM 2. Amend subrule 567--22.5(3) as follows:

22.5(3) Emission offsets.

a. Emission offsets shall be obtained from the same source or other sources in the same nonattainment area, except that the required emissions reductions may be obtained from a source in another nonattainment area if:

(1) The other area, which must be nonattainment for the same pollutant, has an equal or higher nonattainment classification than the nonattainment area in which the source is located, and

(2) Emissions from such other nonattainment areas contribute to a violation of a National Ambient Air Quality Standard in the nonattainment area in which the proposed new or modified source would construct.

b. Emission offsets for any regulated air contaminant in the designated nonattainment area shall provide for reasonable further progress toward attainment of the applicable National Ambient Air Quality Standards and provide a positive net air quality benefit in the affected area.

c. The increased emissions of any applicable nonattainment air pollutant allowed from the proposed new or modified source shall be offset by an equal or greater reduction, as applicable, in the total tonnage and impact of actual emissions, as stated in subrule 22.5(4), of such air pollutant from the same or other sources. For purposes of subrule 22.5(3), actual emissions shall be determined in accordance with subparagraphs 22.5(1)"n" (1) and (2).

d. All emissions reductions claimed as offset credit shall be federally enforceable prior to, or upon, the issuance of the permit required under this rule, and shall be in effect by the time operation of the permitted new source or modification begins.

e. Proposals for emission offsets shall be submitted with the application for a permit for the major source or major modification. All approved emission offsets shall be made a part of the permit and shall be deemed a condition of expected performance of the major source or major modification.

ITEM 3. Amend subrule 22.5(4)"a" as follows:

22.5(4) Acceptable emission offsets.

a. Equivalence. The effect of the reduction of emissions must be measured or predicted to occur in the same area as the emissions of the major source or major modification. It can be assumed that, if the emission offsets are obtained from an existing source on the same premises or in the immediate vicinity of the major source or major modification and if the air contaminant disperses from substantially the same stack height, the ~~emissions~~ emissions will be equivalent and may be offset. Otherwise, an adequate diffusion model must be used to predict the effect. If the reduction accomplished at the source is ~~in accordance with the ratio of 22.5(4)"b"~~ as

specified in subrule 22.5(3) and if the effect of the reduction is measured or predicted to occur in the same area as the emissions of the major source or major modification, the effect of the reduction at the measured or predicted point does not have to exactly offset the effect of the major source or major modification.

ITEM 4. Rescind paragraph 567--22.5(4)"b" and reserve the number.

ITEM 5. Rescind paragraph 567--22.5(4)"g" and replace with the following:

g. Reduction credits. Credit for an emissions reduction can be claimed to the extent that the Administrator and the department have not: (1) relied on it in issuing any permit under regulations approved pursuant to 40 CFR parts 51, 55, 63, 70, or 71, as amended through May 11, 1995; (2) relied on it in demonstrating attainment or reasonable further progress; or (3) the reduction is not otherwise required under the Clean Air Act. Incidental emissions reductions which are not otherwise required under the Act shall be creditable as emissions reductions for such purposes if such emissions reductions meet the requirements of subrule 22.5(3).

ITEM 6. Rescind subrule 22.5(4)"i" and replace with the following:

i. Shutdown or curtailment.

(1) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are surplus, permanent, quantifiable, and federally enforceable, and if the area has an EPA-approved attainment plan. In addition, the shutdown or curtailment is creditable only if it occurred on or after the date specified for this purpose in the plan, and if such date is on or after the date of the most recent emissions inventory or attainment demonstration, as the case may be, shall apply. However, in no event may credit be given for shutdowns which occurred prior to January 1, 1978. For purposes of this paragraph, the director may consider a prior shutdown or curtailment to have occurred after the date of its most recent emissions inventory, if the inventory explicitly includes as current existing emissions the emissions from such previously shutdown or curtailed sources. The work force shall be notified of the proposed curtailment or shutdown by the source owner or operator.

(2) The reductions described in subparagraph 22.5(4)"i"(1) may be credited in the absence of any approved attainment demonstration only if the shutdown or curtailment occurred on or after the date the new source permit application is filed, or, if the applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the cutoff date provisions in 22.5(4)"i"(1) are observed.

ITEM 7. Amend subrule 22.5(5) as follows:

22.5(5) Banking of offsets in nonattainment areas. If the offsets in a given situation are more than required by 22.5(4)"b" 22.5(3), the amount of offsets that is greater than required may be banked for the exclusive use or control of the person achieving the reduction, subject to the limitations of this subrule. If the person achieving the reduction is not an individual, an authorized representative of the person must release control of the banked emissions in writing before another person, other than the commission, can utilize the banked emissions. The banking of offsets creates no property right in those offsets. The commission may proportionally reduce or cancel banked offsets if it is determined that reduction or cancellation is

necessary to demonstrate reasonable further progress or to attain the ambient air quality standards. Prior to reduction or cancellation, the commission shall notify the person who banked the offsets.

ITEM 8. Amend subrule 22.5(6) as follows:

22.5(6) Control technology review.

a. Lowest achievable emission rate. A new or modified major source in a nonattainment area shall comply with the lowest achievable emission rate.

b. For phased construction projects, the determination of the lowest achievable emissions rate shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to the commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of the LAER for the source.

c. State implementation plan, new source performance standards, and emission standards for hazardous air pollutants. A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emissions standard of performance under 40 CFR parts 60 and 61, as amended through May 30, 1995.

ITEM 9. Amend subrule 22.5(8) as follows:

22.5(8) Alternate site analysis. ~~If a major source of carbon monoxide or a major modification to a carbon monoxide source is proposed to be located in a carbon monoxide nonattainment area, the source owner or operator must submit an alternative site analysis.~~ The permit application shall contain a submittal of an alternative site analysis. Such submittal shall include analysis of alternative sites, sizes, production processes and environmental control techniques for the proposed source. The analysis must demonstrate that benefits of the proposed source significantly outweigh the environmental and social costs that would result from its location, construction or modification. Such analysis shall be completed prior to permit issuance.

ITEM 10. Add a new subrule 567--22.5(9) as follows:

22.5(9) Additional Conditions for permit approval.

a. For the air pollution control requirements applicable to subrule 22.5(6), the permit shall require the source to monitor, keep records, and provide reports necessary to determine compliance with and deviations from applicable requirements.

b. The state shall not issue the permit if the Administrator has determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed stationary source or modification is to be constructed.

ITEM 11. Add a new subrule 567--22.5(10) as follows:

22.5(10) Public availability of information. No permit shall be issued until notice and opportunity for public comment are made available in accordance with the procedure described in 40 CFR 51.161 (as amended through May 8, 1995).

These rules are intended to implement Iowa Code section 455B.133

Date

Larry J. Wilson, Director

Mr. Murphy explained that the purpose of the rules is to bring them up to date on nonattainment areas.

Motion was made by Charlotte Mohr to approve Notice of Intended Action--Chapter 22, New Source Review - SO₂ Nonattainment Areas. Seconded by Verlon Britt. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION--CHAPTERS 135 AND 133, UNDERGROUND STORAGE TANKS RISK BASED CORRECTIVE ACTION

Larry Wilson, Director, presented the following item.

The Commission will be asked to approve a Notice of Intended Action for proposed amendments to Chapters 135 and 133 of departmental rules. These amendments would institute a risk based corrective action response to releases from underground petroleum storage tanks as directed by legislative enactment during the 1995 session of the Iowa general Assembly.

The department has been working with a Technical Advisory Committee, formed in accordance with the law, to develop the proposed rules. The rules are undergoing final editing and will be forwarded to the Commission under separate cover prior to the October meeting. At the meeting, representatives of the Technical Advisory Committee will present the Committee report, walk the Commission through the proposed rules, and respond to questions.

(A copy of the committee report, proposed rules, and supporting documents are on file in the department's Records Center)

Director Wilson stated that during the last session the legislature passed a bill to create the implementation of Risk Based Corrective Action Standards (RBCA) and also required the establishment of a Technical Advisory Committee to help the department prepare recommended rules. The committee was also required to file a report on their activities. Director Wilson introduced Dave Koch, Terracon Environmental and Richard Heathcote, both members of the Underground Storage Tank Technical Advisory Committee (UST-TAC). He noted that Mr. Koch will present an overview of the rules and report.

Dave Koch

Dave Koch, Terracon Environmental, stated that the RBCA process is a new process and he gave a detailed explanation of same. He noted that RBCA fixes the target risks that lets one know what the acceptable levels are, and it treats all sites for their individual characteristics. He related that HF508 asked the UST-TAC to make available rules that not only are protective of public health and the environment but also to focus resources where needed, particularly to those sites that pose the greatest risk. The rules are intended to facilitate the marketability of the sites by expediting the process to lend monies to purchase properties. Mr. Koch stated that the other intent was in understanding that the resources of the department are fairly finite, therefore the burden of the technical responsibility should be shifted to certified groundwater professionals. He related that the department would still maintain audit and review authority. The UST-TAC and the department felt it was essential that strong supporting documentation accompany the rules to make them successful. The committee also felt that public education and awareness are very important aspects of this rule. Mr. Koch called attention to Page 8 of the Committee Report, noting that the 13 items listed could be potential areas where conflict may arise.

Charlotte Mohr asked why there are different levels of risk for residential and nonresidential as shown in the third paragraph, on Page 3, of the Joint Report.

Mr. Koch responded that the statute acknowledges that daily activities for each of those categories produce a different level of risk and he explained how those risks are calculated.

Verlon Britt asked if other states are using this type of process.

Mr. Koch replied that by the end of the year Iowa will be one of a half dozen states using RBCA standards.

A lengthy discussion took place regarding Tier I and Tier II site classifications; transitional issues; staff training and an adequate number of staff for the program; and various risk levels.

Motion was made by Charlotte Mohr to approve Notice of Intended Action--Chapter 135 and 133, Underground Storage Tanks Risk Based Corrective Action. Seconded by Terrance Townsend. Motion carried unanimously.

William Ehm commented that the Commission recognizes all of the work the committee has put into development of the rules and report and it is very much appreciated.

APPROVED AS PRESENTED

REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- a. Paul Klocke (Carroll County) - flood plain
- b. Monroe County Board of Supervisors - waste water
- c. David Lerud (Plantation Village Mobile Home Park - Burlington) - waste water
- d. City of Perry - waste water
- e. Orrie's Supper Club, Inc./Joe Karkosh (Voorheis) - drinking water
- f. Harold Lee (Keokuk County) - wastewater
- g. Thomas Buckley (Howard County) - wastewater

Paul Klocke

Mr. Murphy stated that this case involves the raising of a levee without a permit. The Administrative Order directed Mr. Klocke to get after-the-fact approval or reduce the levee to pre-existing conditions. He noted that the Order was not appealed. Mr. Murphy stated that the factual allegations in this matter are based on witnesses of the drainage district.

Appointment - Paul Klocke

Paul Klocke, Carroll, stated that he might have raised the levee but he did not think there was any consequence because the trustees of the drainage district said his was the highest levee in the first place. He spoke of problems the people in the area have had with the drainage district in trying to get them to do maintenance on it. He distributed photos depicting a lack of maintenance on the ditch. He related that there are too many obstacles to get a flow out of the ditch and the drainage district members will not do anything about it. Mr. Klocke asked how he can get the supervisors or trustees to do something about it. He continued to expand on complaints he has with the drainage district.

Mike Murphy interrupted pointing out that the department's only dispute in this case is the illegal raising of the levee.

Mr. Klocke reiterated that he asked one of the drainage district representatives if it was alright to push up his levee and was told that it was okay as long as it was done at his own expense. He added that he would like a chance for rebuttal after the drainage district representatives make their presentation. He circulated copies of a petition sent to the drainage district and noted that he has been trying to work with them.

Appointment - Paul Grote

Paul Grote, Carroll County Drainage District Trustee, introduced other members of the drainage district. He stated that there is no place in the county records where it states that specific area of the Middle Raccoon is a levee or a flood control district. He related that it drains about 200 square miles at this point and is a part of drainage district 23, of which there are approximately 3,000 taxpayers to the district. He noted that the petition is signed by Mr. Klocke and six other people. Mr. Grote stated that there is no language in the Code stating that the drainage district has to cut trees from the ditch. He related that it says the trustees may remove silt from the ditch or they may cut trees from the ditch, but it is not compulsory. Mr. Grote stated that they did make an application for rechanneling and it was denied by the DNR. He related that it would have needed a wetlands designation and the owner of the land said he would not sign a wetlands designation until other things are done first. Mr. Grote circulated photos of the dike without anything growing on it and indicated that it shows how Mr. Klocke raised the levee at least two-and-one-half feet. He urged the Commission to prosecute this case to the full extent of the law.

Mr. Klocke stated that relating to Mr. Grote's comment to prosecute to the full extent of the law, he did not know all of the rules at that time. He implied that he did nothing other than what the drainage district did, and they did it after he did his.

Chairperson King reminded Mr. Klocke that dealing with the drainage district is not the jurisdiction of the Commission.

Kathryn Draeger asked if Mr. Klocke submitted a proposal for an after-the-fact permit.

Mr. Murphy stated that the proposal was to remove six inches from some areas and to add ten inches to other areas to achieve a consistent grade. He related that testimony from the drainage people was that it was raised at least two-and-one-half feet.

Motion was made by William Ehm for referral to the Attorney General's Office. Chairperson King chose to second the motion due to lack of any of the other Commissioners to do so.

Michael Fesler commented that the Commission's hesitance to second the motion tells everybody that, even though it is not the Commission's jurisdiction, there is a problem and the Commission is disappointed that it could not be resolved at the local level.

Kathryn Draeger commented that this is a case of using environmental law to satisfy some other agenda, assuming the report of violation came from the drainage district.

Discussion followed regarding the application for a permit and its subsequent denial.

Chairperson King requested a roll call vote. "Aye" vote was cast by Commissioners Murphy, Townsend, Britt, Ehm, Fesler, Mohr, and King. "Nay" vote was cast by Commissioner Draeger. Motion carried on a vote of 7-Aye to 1-Nay.

REFERRED

Harold Lee

Mr. Murphy stated that there was a prior Order and penalty issued to this party and that matter is still under appeal, so the Commission cannot assume any facts involved in that matter. He noted that this case involves a subsequent discharge of swine waste into waters of the state. He related that Mr. Lee installed an earthen basin without a permit. Wastes overflowed the below-building pits and also exceeded the top of the lagoon causing pollution. Mr. Murphy stated that it appears there was a fairly quick lowering of the lagoon, and a pipe in the area was further discovered which could possibly indicate it was intentional discharge. He stressed that the bottom line is that this was a second discharge of high strength swine waste into the river and should be referred.

Appointment - Larry McClelland

Larry McClelland, Bradshaw Law Firm, stated that Mr. Lee had an incident in 1993 and it is still in the contested case appeal process. He related that the incident arose as a result of an emergency that Mr. Lee found himself in, when a valve broke at the confinement facility which ultimately led to the discharge. In order for that not to happen again, Mr. Lee built the earthen waste storage facility so he could discharge manure from the confinement facility if he encountered another emergency situation. Mr. McClelland noted that Mr. Lee had some flooring give way and in order to save the pigs from drowning he discharged to the earthen waste storage facility. He stated that Mr. Lee did not believe he needed a permit when the storage facility was constructed because he has sold no more than 1,000 - 1,100 butcher hogs per year. Based on his production records he would have no more than 300-400 hogs in the facility at any one time and it is his contention that, under the regulations, no permit is required in this situation. He related that their position is that there is no permit violation and nothing to refer. He added that in regard to the incident in March 1995, Mr. Lee did not discharge any waste from the basin on to the ground. He further explained that there is an open feedlot right next to the basin which drains to the east, and the basin sits east of the confinement facility. He indicated that there was a broken tile line north of the feedlot and that is how the animal waste got into the system and was discovered a quarter of a mile from where the tile line broke. Mr. McClelland stated that the waste got into the system because of an accident that occurred. He related that the day Mr. Lee was informed of the tile breakage, he repaired it that night. He discussed the sampling locations and results of the sampling, noting that it does not make sense to have upstream numbers higher than downstream. Mr. McClelland implied that the tests were not performed properly as a water temperature test was not taken. He contended that there was no contamination of water of the state and, therefore, was no violation.

Mr. Murphy pointed out that there are some factual disputes in this case needing further investigation which can be conducted by the Attorney General's Office.

Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Kathryn Murphy. Motion carried unanimously.

REFERRED

NOTICE OF INTENDED ACTION--CHAPTER 22, AIR QUALITY BUDGET AND PERMIT FEES RULES

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution", Iowa Administrative Code.

Title V air operating permit fees are currently paid on November 15th of each year. This date coincides with the date the department filed its application for approval of the Title V operating permit program with EPA. The state's fiscal year runs from July 1st to June 30th. Currently, the department maintains a budget for the state fiscal year, and then adjusts it for the Title V fee year by carrying forward fees to cover one-third of the year. The amendment requires fees to be paid at the beginning of the state fiscal year on July 1st, which permits revenues and expenses to be reported for the same period. The amendment also advances the date on which Title V sources must submit their emissions inventory, from November 15th to March 31st of each year. This will enable the commission to base fees on actual, rather than estimated, emissions. The amendment also requires the department to submit budget information, changes to the emission form, total statewide Title V emissions, and the fee calculation, to the commission and the public by certain dates. It also requires the commission to set the fee by the May commission meeting, provides additional guidance to the commission on how to set the fee, and requires the commission to provide for public comment on the budget and fee.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

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Item 1 deletes language from the Title V application rule which requires fees to be submitted with the Title V application.

Item 2 removes the amount of the fee from the rule, changes the date that fees will be paid from November 15 to July 1 of each year, requires the department to submit a budget to the commission in March, provides additional guidance to the commission on setting the fee, and provides for public comment. This amendment also changes the date fees must be paid from November 15 to July 1 of each year, changes the date emissions information must be submitted from November 15 to March 31 of each year, provides that the department will make revised emission forms available to the public by January 1, and requires the department to calculate total statewide Title V emissions and make this calculation available to the public by April 30 of each year. The list of forms due to the department each year is clarified by listing each form and form title. Each subrule is titled for clarification

Any person may make written suggestions or comments on the proposed rules on or before _____. Written comments should be directed to Catharine Fitzsimmons, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, FAX (515)281-8895.

A public hearing will be held on _____ at _____ m. in _____, Wallace State Office Building, 900 East Grand, Des Moines, Iowa, at which time comments may be submitted orally or in writing.

Any persons who intend to attend a public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise the Department of any specific needs.

These rules may impact small business.

These rules are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend subrule 567--22.105(1) as follows:

22.105(1) Duty to apply. For each source required to obtain a Title V permit, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, at least four copies of a complete and timely permit application in accordance with this rule. ~~The application shall be accompanied by the required amount of fees.~~

ITEM 2. Amend subrule 567--22.106(1) as follows:

22.106(1) Fee established. Any person required to obtain a Title V permit shall pay an annual fee ~~of \$24 times based on~~ the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994. Beginning July 1, 1996, Title V operating permit fees will be paid on July 1 of each year. The fee shall be based on emissions for the previous calendar year. The department and the commission will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee. The commission shall not set the fee higher than \$24 per ton without adopting the change pursuant to formal rulemaking.

22.106(2) Fee calculation. The fee amount shall be calculated based on the first 4,000 tons of each regulated air pollutant or contaminant emitted each year from each major source.

22.106(3) Fee and documentation due dates. The fee shall be submitted annually by ~~November 15 July 1, with a complete part 1 portion of the Title V permit application documenting actual emissions calculations for the previous year.~~ The following forms shall be submitted annually by March 31 documenting actual emissions for the previous calendar year:

- a. Form 1.0 "Facility identification,"
- b. Form 4.0 "Emission unit - actual operations and emissions" for each emission unit,
- c. Form 5.0 "Title V annual permit fee" and,
- d. Part 3 "Application certification."

If there are any changes to the emission calculation form, the department shall make revised forms available to the public by January 1. The department shall calculate the total statewide Title V emissions for the prior calendar year and made this information available to the public no later than April 30 of each year.

22.106(4) Phase I acid rain sources. No fee shall be required to be paid for emissions which occur during the years 1993 through 1999 inclusive, with respect to any Phase I acid rain affected unit under section 404 of the Act.

22.106(5) Operation in Iowa. The fee for a portable emissions unit or stationary source which operates both in Iowa and out of state shall be calculated only for emission from the source while operating in Iowa.

Mr. Murphy reminded the Commission that a revised copy of this item was distributed to them to replace the one originally received in their packets. He noted that this item was discussed in detail at the previous Commission meeting. He added that some revisions were made in working in conjunction with the air quality task force. He related that Amy Christensen worked on the task force and asked her to review the changes.

Amy Christiansen

Amy Christiansen, Sullivan and Ward, explained that the rules move up the date that sources have to file their emissions inventories, so that the Commission can base the fees on actual emissions. The rules also move the date that the fees are paid to July 1, to coordinate it with the States' fiscal year and have a clearer understanding of what is needed. She noted that headers were added under 22.106 (1), (2), (3), (4) and (5) to help with clarification since the rule was getting lengthy. Ms. Christiansen drew attention to a change in Item 2, which provides the Commission with guidance as to how to set the fee and to provide an opportunity for public comment into the budget and fee setting process. She related that all of the changes were made between department staff and the interested parties involved with development of the rules. She noted that the calendar attached to the rules is not a part of the rule.

Motion was made by Verlon Britt to approve Notice of Intended Action--Chapter 22, Air Quality Budget and Permit Fees Rules. Seconded by Terrance Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

REFERRALS TO THE ATTORNEY GENERAL (CONTINUED)

Thomas Buckley

Mr. Murphy stated that this case involves a manure spill on a tributary to Elk Creek which resulted in a fish kill. The stream investigation traced the spill up to the Thomas Buckley operation. He related that the fishkill was documented for a distance of 1,100 feet downstream and the fish were valued at \$1,400. Mr. Murphy stated that Mr. Buckley has not made any indication of a desire to work out a settlement.

Appointment - Joe Johnson

Joe Johnson, President of Peoples Savings Bank in Alma, spoke on behalf of Tom Buckley. He stated that the spill occurred on July 21, when Tom was cleaning the nursery unit in the evening. He related that the Buckley's were charged with violating three sections of the Code, but they are not guilty of violating section 567.131(2) because they did not know of the spill before the DNR agents informed them of it. He circulated a photo showing the area involved and the ponds at the facility.

Thomas Buckley

Thomas Buckley explained that the day after the spill he went to the pumping station and dampened the area corresponding to the discolored area on the photo. He noted that 9,200 gallons of solids escaping over a five hour period is considerably less than the maximum allowable discharge of 25 cubic feet per second. The manure escaped from the storage tank, through the valve, and ran down into the pumping station. He added that the main pipe is located halfway down in the station, and with the flow as slow as it was, the solids settled to the bottom and the fluids escaped when the pumping station reached its capacity. He noted that this would be only 13.6% of the allowed maximum. Mr. Buckley listed the following things he has done this year: 1) soil tested the area and did not apply commercial fertilizer; 2) put in a long acre of windbreak around the storage tank for improved air pollution; and 3) had well water tested which showed nitrates lower than in previous tests. Since the spill he has asked the NRCS to inspect the facility, and has also submitted a feedlot waste management plan which was in place since 1992. He indicated that he is going to convert the storage tank to a top fill rather than a bottom fill. Mr. Buckley asked the Commission to limit his liability to the actual loss occurred.

Mr. Johnson indicated that the Buckley's spent \$28,000 on a holding tank when a lagoon would have been cheaper but not as environmentally safe. He expanded on details of the spill and the DNR's investigation. He noted that the Buckley's received bad publicity and their reputation has been ruined because of a pebble holding up a valve, inflated volume of the spill, and inflated fish kill articles in the newspapers. He stated that he and Bruce Wiegel walked and measured the creek and explained how their observations would indicate that the creek is 62% smaller than estimated by DNR. Mr. Johnson related that the ammonia was 3 ppm at the starting and ending points of the creek, according to DNR, and information from ISU indicates that this should kill all of the fish in the area. He discussed estimated ammonia percentages in a manure holding tank and in making comparisons determined the creek to be less than a third the size determined by DNR. He indicated that accordingly the fish kill should be reduced to 6,186 and the fine to \$535.88. In conclusion, he asked the Commission to look at the overall issues in the case, charge them a small administrative fee, and adjust the fish kill to a more realistic figure.

Mr. Murphy stated that the fisheries biologists walked the whole area and made estimates using standard procedures. He stated that if there are disputes the Attorney General's office can explore it. He noted that Mr. Buckley has not been as cooperative as most cases in working out a settlement for the fish kill.

Mr. Buckley stated that he let the fish restitution deadline pass because he thought this meeting today was set up to work things out.

Verlon Britt asked if there is flexibility to allow for further negotiations. He added that the Buckley's are responsible owners and the fish kill was an accident. He related that even though he finds it difficult to excuse accidents, on the other hand it is sometimes necessary to look at the total circumstance.

Charlotte Mohr concurred with Commissioner Britt, adding that no one knows when a valve will malfunction.

Mr. Murphy stated that he recognizes their right to dispute the facts, but the staff feel it was fully investigated and the facts need to be sorted out. He noted that there were other cases similar to this during the past summer and all of those parties were willing to accept responsibility even though their cases were also accidental. He stressed that in this case they are not willing to take responsibility for it.

Appointment - Bruce Wiegel

Bruce Wiegel, Vice-President of Peoples Savings Bank in Alma, stated that the problem is centering on Tom Buckley being uncooperative and noted that a lot of time has not elapsed since the incident happened. He related that \$1,400 is not going to break any of the farmers, but their feeling is that the method that was used to determine the number of fish killed was wrong. He added that the main thrust is that Tom Buckley is under the assumption that the fines for each of the three violations could be as high as \$50,000 if enforced to the hilt. Mr. Wiegel added that they recognize there is some fault but they disagree on the number of fish killed.

Kathryn Murphy commented that in other matters where there seems to be areas of disagreement the Commission has given anywhere from 30-60 days to work it out and come to some kind of agreement.

Motion was made by Kathryn Murphy to table the referral for 60 days to allow staff to work out the situation administratively. Seconded by Charlotte Mohr. Motion carried unanimously.

Discussion followed regarding possibly involving some members of the Commission in the negotiations to work out an agreement. It was decided to let staff handle it and they will inform the Commission as to what was agreed on if it does not come back for referral.

Marion Conover, Bureau Chief, Fisheries Bureau, addressed the Commission stating that he spoke with his counterpart in Missouri and Minnesota and they all use Publication #24 as a guideline for investigation and evaluation of fish kills. He added that there is a companion document put out by the American Fisheries Society which is also used to determine assessments. He indicated that Minnesota uses the same procedure as Iowa but Missouri differs in that, as well as assessing the cost of the fish, they also assess the cost of the investigation to the violator. Mr. Conover related that there are many factors that go into the investigation of a fish kill. He noted that Rick Martens worked for the Fisheries Bureau for 15 years and has investigated many fish kills. He pointed out that he and other fisheries professionals view the number of fish in a fish kill as conservative estimates, adding that staff have never overestimated a fish kill. Mr. Conover stressed that Mr. Buckley has not been treated any differently than any other individual in these situations.

REFERRAL TABLED FOR 60 DAYS

Monroe County Board of Supervisors

Mr. Murphy briefed the Commission on this case involving an Administrative Order issued to the county to address a problem with private waste disposal systems in the town of Avery. He noted that the Order was not appealed, but the County has made considerable effort to solve the problem. He stated that staff are not looking to be punitive but feel that because of the duration of time and the fact that there is an Order that is not being complied with, it should be referred.

Dennis Ryan

Dennis Ryan, Chairman, Monroe County Board of Supervisors, introduced Paul Kaffman, Don Herteen, and Jim Cooper who are with him today. He stated that in January 1993, he hired Don Herteen as public sanitarian and in March the supervisors passed Chapter 69, for sanitary compliance with the Order referred to. He asked Don Herteen to speak at this point.

Don Herteen

Don Herteen, Monroe County Sanitarian, stated that he sent in a list of names of residents not in compliance, which included all 47 homes in Avery. He noted that 37 of the 47 homes drained into the pipe that DNR took their samples from. He related that they could not pick just two or three to try to get that particular situation rectified. He added that there is an extremely high water table in the area and poor percolating soil, so every system is going to have to be made into some type of discharge system. He stated that they have started looking at a central sewer system and he asked Jim Cooper to address that issue.

Jim Cooper

Jim Cooper, RC&D, stated that he got involved to help the supervisors through the grant process to acquire funding for this project. He reviewed the federal funding programs available. He noted that in the case of Avery the Farmers Home Grants will supply about \$300,000 and Community Development Block Grants would supply \$125,000, leaving \$100,000 to be funded locally. He related that they are looking to Rathbun Regional Water Association to be the administrator. Mr. Cooper stated that they have gone through a lot of planning and project implementation to get this far.

Michael Fesler asked when the funds will be available.

Mr. Cooper responded that according to the project schedule, funding should be available in December or January.

Mr. Ryan stated that the Board of Supervisors are asking for a little more time to get the work done.

Chairperson King asked what kind of timeline is expected to complete the project if funds become available in January.

Mr. Cooper stated that the whole project will take about a year.

Kathryn Draeger asked if staff are looking for assurance that the Administrative Order is being followed.

Discussion followed in regard to possibly amending the schedule in the Administrative Order. Also discussed was the role of keeping the heat on to assure the work gets done.

Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Kathryn Murphy.

Michael Fesler asked if this will create any problems for the county.

Mr. Ryan stated that he knows the department is trying to work with them but a court order would give the county a "black eye."

Director Wilson asked if this could be worked out in-house.

Mr. Murphy stated that the department could amend the Administrative Order with a new schedule.

William Ehm withdrew his motion. Kathryn Murphy concurred in withdrawal of the motion.

Mr. Murphy stated that staff will make one amendment of the Administrative Order but they must understand that, with or without the funding, they will have to meet the amended date.

NOT REFERRED - WILL NEGOTIATE ADMINISTRATIVELY

PETITION FOR DECLARATORY RULING--LARRY L. BENNETT (WASTE REDUCTION GOALS)

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

Larry L. Bennett requests a Declaratory Ruling interpreting various rules and statutes pertaining to the meaning of the term "recycling" and waste reduction goals. Mr. Bennett contends that a municipal solid waste (MSW) recycling facility, which includes some combustion of materials, with the resulting ash also being recycled, should result in 100% of the incoming wastes being credited as recycling towards meeting waste reduction goals. A copy of his petition is attached. Also attached is the Department's Proposed Ruling, concluding that the portion of the waste lost

through combustion cannot be counted towards meeting the waste reduction goals, because this is not a recycling process. The resulting ash, if it is in fact recycled, could be counted. The Commission is requested to adopt the Proposed Decision as its Declaratory Ruling.

**BEFORE THE
DEPARTMENT OF NATURAL RESOURCES**

Petition by Larry L. Bennett	
For a Declaratory Ruling on	PROPOSED
567 IAC 100.2; IC 455D.1(6), 455D.3(1), and 455B.301A	DECLARATORY RULING

Larry L. Bennett asks for a Declaratory Ruling pertaining to the above-cited rule and statutes, as follows:

1. Does the term "incineration" have the same meaning as "combustion", in the context he describes?
2. When combustion is used as a process to separate municipal solid waste, with the resulting material being reused, is this recycling?
3. Will the volume of waste that is recycled when combustion is used be applicable toward the waste reduction goals?

The context of these questions is a facility that proposes to take municipal solid waste (MSW) and utilize processes of separation, crushing, baling, combustion of the MSW, and separation of ash and other usable materials such as glass and metals. The proposal indicates that all materials, including the ash, will be recycled and no waste will be disposed of in a landfill. It appears that some separation will occur before combustion, and some after. For purposes of this inquiry, we will assume that the MSW ash would be suitable for and in fact used as a raw material or product.

The reason for the questions is that Iowa Code section 455D.3(1) establishes goals of reducing the amount of materials in the waste stream statewide by 25% by July 1, 1994, and by 50% by July 1, 2000. Local governments and other entities within comprehensive planning areas within the state are provided certain incentives or face certain sanctions with respect to meeting these goals within their respective areas. 455D.3(1) provides that the reductions must be met through "waste reduction" or "recycling". "Waste reduction" is defined as practices that reduce or avoid the creation of waste in the first place, and does not pertain to the issues in this request. "Recycling" is defined in Iowa Code section 455D.1(6) as any process by which waste, or materials that would otherwise become waste, are collected, separated, or processed and revised or returned to use in the form of raw materials or products. "Recycling" includes composting of

separated yard waste, but does not include any form of energy recovery. The waste management hierarchy stated in Iowa Code section 455B.301A recognizes waste reduction and recycling as the preferred methods of waste management, and other alternatives including but not limited to combustion for energy recovery, combustion for waste disposal, and disposal in sanitary landfills are less preferred, and are distinguished from recycling.

The crux of Mr. Bennett's arguments seems to be that his process will be "combustion for recycling", and since it is not specifically relegated to the lower management level of 455B.301A (combustion for energy recovery or combustion for disposal), and is somehow different than "incineration", which term implies ultimate disposal, we should determine that this process is "recycling".

It is not clear to the Department what the relevance of the first question is. As we understand the real question, is the total volume of MSW brought into the facility counted towards meeting the goals, or only the amount diverted to recycling? For example, if 200 tons of MSW are brought into the facility 100 tons are separated out and recycled, and 100 tons are combusted, resulting in 20 tons of ash that is then recycled, would this count as 200 tons of recycled materials, or 120 tons. In other words, are the 80 tons that go up in smoke counted? The obvious answer is that 120 tons that are returned to use as raw materials or products are recycled, and the rest is not. It does not matter whether one says the 20 tons were combusted or incinerated, they were not recycled.

This is not to say that there may not be some processes whereby the "mass balance" is such that an amount of waste will be processed to result in a lesser amount of product to be reused, for which we would consider the input to be the amount recycled. Yard waste composting would be an example. However, the General Assembly apparently recognized this may be an issue of interpretation, and specifically included yard waste composting as a recycling process. The fact that the legislature did not include other processes suggests more that other processes would not be considered recycling. The definition does appear to give the Department some discretion in this area, when it says "recycling includes but is not limited to the composting of yard waste...." In other words, there may be other processes similar to composting, where we would consider the input to be recycled. However, we feel that the statute indicates fairly restrictive policies as far as interpreting the term "recycling". In the case of yard waste composting, the statute indicates that a relatively homogeneous material must "previously" (i.e. at the source) be separated from other waste. We feel that combustion in general, not just the combustion specifically identified in 455B.301A, is identified as a less preferred management method, and cannot be considered to be recycling. It would be incongruous to conclude that combustion without energy recovery may be called recycling, when combustion for energy recovery, which may also result in a recyclable ash, could not be called recycling under our statutes.

ROSEANNE KING, CHAIR
ENVIRONMENTAL PROTECTION COMMISSION

Dated this ____ day
of October, 1995.

Mr. Murphy briefed the Commission stating that this petition is in regard to the meaning of certain terms in the solid waste laws relating to waste reduction volume goals and the term "recycling." He related that Mr. Bennett was notified that he could appear before the Commission today but staff have not heard from him. He added that he does not know if that means Mr. Bennett is satisfied with the Declaratory Ruling or not. Mr. Murphy stated that the department's position is that the materials which are burned cannot be counted as recycling.

Motion was made by Terrance Townsend to uphold the Declaratory Ruling of the department. Seconded by Verlon Britt. Motion carried unanimously.

UPHELD DECLARATORY RULING OF THE DEPARTMENT

City of Perry

Mr. Murphy stated that staff will withdraw this referral as a request was received from the City of Perry to delay it for one month and staff agreed to the delay.

REFERRAL WITHDRAWN

David Lerud (Plantation Village Mobile Home Park)

Mr. Murphy briefed the Commission on the history of this case involving monitoring violations and failure to maintain the aerator of a lagoon as required.

Motion was made by Verlon Britt for referral to the Attorney General's Office. Seconded by Terrance Townsend. Motion carried unanimously.

REFERRED

Orrie's Supper Club, Inc./Joe Karkosh

Mr. Murphy briefed the Commission on the history of this case involving monitoring violations.

Brief discussion followed.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by William Ehm. Motion carried unanimously.

REFERRED

NOTICE OF INTENDED ACTION--CHAPTER 65, ANIMAL FEEDING OPERATION PLANS AND ACCO COMMITTEE REPORT

Don Paulin, Deputy Director, presented the following item.

HF519 established an 8 member Animal Agriculture Consulting Organization (AACO) and directed the Department to consult with this group in developing rules and implementing the bill.

The AACO met several times in full committee and in sub-committees and has delivered their recommendations to the Department staff. The proposed rule is a combination of those efforts.

The manure management plan (MMP) is the key element of both HF519 and the proposed rule. Flexibility to deal with various soils and wastes was considered. Iowa State University was involved in the development of the MMP.

Although emergency rules have been approved dealing with spray irrigation, and MMP's for units between 200,000 and 625,000 pounds of animal weight, these issues are revisited in developing this rule.

Tile drainage around manure storage structures, public use areas, the definitions of when construction begins, adjacency, and certification by engineers are among other important pieces of the proposed rule.

The proposed rule and ACCO Committee report will be sent under separate cover.

(Copies of the proposed rule and ACCO Committee report are on file in the department's Records Center)

Mr. Paulin introduced a number of members of the ACCO Committee present today. He reviewed the establishment of the ACCO Committee and their responsibilities under HF 519. He recapped the work, meetings, public participation, etc., of the ACCO Committee and related that he facilitated the meetings and staff member, Ubbo Agena, along with Mike Murphy, provided technical assistance. Mr. Paulin reviewed the rules noting where changes have been made, and where other interests disagree with specific points in the rule.

Harold Trask, ACCO Committee Member representing Iowa Pork Producers, distributed a copy of amendments he is proposing to the rule. He noted that, basically, these amendments return the language to the original recommendations of the ACCO Committee, except for the one pertaining to soil building.

There was thorough discussion on each of the following sections of the rule; those sections and the Commission's action are as follows:

- 567--65.1 Definitions

Under "Enforcement action," Mr. Trask asked that the following be struck: "the department notifies a person in writing of intent to recommend referral of or".

Consensus of the Commission was to leave the language as is, which uses the department's language

Under "Formed manure storage structure," Mr. Trask asked to reinsert AACO language regarding other similar materials and change the word "shall" to "may." That sentence would then read as follows: Similar materials "may" include, but not be limited to, plastic, rubber, fiberglass, or other synthetic materials.

Consensus of the Commission was to change the word "shall" to "may" and leave in the language as suggested by ACCO.

Mr. Trask discussed the adjacency issue and noted that the language appears okay. He expanded on the different types of operations and the distances required. Don Paulin added that this issue was one of the areas that drew the most flak during public meetings.

Mr. Paulin reviewed minor changes on pages 9-14.

- Manure Management Plans - 65.6H

Mr. Trask addressed areas dealing with manure management plans (MMP), beginning on page 14, and covering various other portions of the rule through page 36. He provided a list of suggested amendments throughout these pages.

Mr. Trask stated that the manure management plan is the "nuts and bolts" of HF 519. He related that the ACCO committee did not have the authority to look at the structure of the industry. He noted that ACCO tried to determine legislative intent of HF 519 and expanded on why he would like certain sections returned to the ACCO proposed language. He stated that the permit application and the manure management plan should be two separate documents and the department wants to consider them as one document. He related that he does not agree with that.

Mr. Paulin stated that legislative intent is difficult to determine and noted that he believes the intent was to have the manure management plan be available at the county level. He added that consideration must be given to the supporting document as being a portion of the application. He also stressed that the manure management plan cannot be confidential unless the trade secrets portion is invoked, which is done on a case-by-case basis.

It was decided to vote on the group of suggested amendments relating to the MMP all in one package, after each of the areas have been discussed throughout the rules.

Commissioner Townsend left the meeting at this point (4:30 p.m).

• 567--65.6F Separation Distances from certain lakes, rivers and streams.

Mr. Trask asked that subsection (3) be deleted. He noted that producers should know up front which streams, lakes and rivers are considered before they begin their plans.

Consensus of the Commission was to leave the rule as is and not strike this portion of the rule.

• 567--65.6H (2) and (2)a - Manure management plan for sales of manure.

A lengthy discussion took place regarding various issues in this section and the possibility that specifying poultry could create a loophole for other producers.

Mark Friedlow, Iowa Poultry Association, stated that some producers sell the vast majority of the manure and apply the remainder on their own ground, and they fear they may have to prepare two manure management plans. He related that it just complicates the issue for poultry producers.

Ubbo Agena explained that a producer would need only one MMP and can write flexibility within the manure management plan if they have enough land on which to apply the manure. He noted that the important thing is to cover all aspects of what they are going to do, relating that if a producer is going to sell 70% of the manure, the plan also has to tell what will be done with the remaining 30%. He stressed that it is important that the plan cover the total manure production as to how all of it will be handled.

Consensus of the Commission was to leave both sections as is. They reasoned that it will go to public comment and if necessary can be changed following the comment period.

• 567--65.6H (4)d - (Nitrogen limits/soil building)

Lindsey Larson, Farm Bureau, stated that soil building is of high importance. He noted that it was the department's suggestion to use the two times/nitrogen rate. He explained that when increasing the organic matter of a soil, it also increases the ability to hold nitrate leachate and that is an environmentally sound aspect to go after. Mr. Larson stated that the Commission was sent a letter from Randy Kilorn, ISU, on the issue of soil building, and he would like to express disappointment in the incompleteness of that letter. He related that the letter does not mention the ability of the soils to substantiate and hold those nitrates in a high organic matter environment. He suggested replacing the word "twice" with "one-and-one-half," noting that this would be a workable arrangement.

A lengthy discussion followed in regard to phosphorus and potassium levels, nitrogen deficiencies, defining soil fertility, and the possibility of creating a loophole which could be abused.

Consensus of the Commission was to keep this language in the rule but to change the usage rate to 1 1/2 times and also change the words "soil fertility" to "phosphorus and potassium."

This section would then read as follows: Manure from a confinement operation may be applied in excess of the annual crop usage rate not to exceed one-and-one-half the annual nitrogen limits for applications of manure if soil testing indicates that the phosphorus and potassium are below recommended levels.

Mr. Paulin reviewed additional minor changes on pages 23-28 of the rules.

• 567--65.6I (1) - Applicability

Ubbo Agena explained that the department is suggesting the following change to close a loophole on facilities that are above the 625,000/lb. live weight but below the permit requirement of 5,000 head. He related that this is to make sure that those people must have a manure management plan. He noted that because of the timing difference between the Emergency Rule and the time these rules go into effect there was a potential that this group of people could escape having to have the manure management plan. These revisions are to make sure that there is not a gap to allow those people, because of a timing change, to avoid having to have the manure management plan. The department is suggesting the following changes:

Delete the paragraph under subsection (1) regarding Applicability and replace it with the following:

65.18 (1) Applicability. The owner of a confinement feeding operation which:

- (a) Stores manure other than exclusively in a dry form in a formed manure storage structure;
- (b) Is first occupied by animals, other than bovine, after September 22, 1995; and
- (c) Has an animal weight capacity of more than 200,000 pounds but less than the construction permit requirement in this chapter and former chapter 65 for formed manure storage structures, in effect at the time construction was begun, as defined in rule 65.7 (455B);

Shall provide the department with a manure management plan meeting the requirements of this rule no later than sixty days prior to the first land application of the manure from the formed manure storage structure.

Consensus of the Commission was to approve the revised language as proposed by the department.

Mr. Trask stated that 567--65.6I also incorporates the Emergency Rule passed by the Commission last month into the final rule for public comment. He expressed concern with the enforcement action struck out of the rules last month and related that he would like to see it reinserted into the rules. Mr. Trask stated that by deleting that section from the rules nonpermitted facilities could have harsher penalties imposed on them than permitted facilities. He suggested reinserting the following language by adding it under 567--65.6I (7):

Enforcement Action. An owner required to provide the department a manure management plan pursuant to this section who fails to provide the department with a plan or who is found in violation of the terms and conditions of the plan shall not be subject to an enforcement action other than assessment of a civil penalty pursuant to section 455B.191.

Commissioner Ehm commented that deleting that section from the rule was recommended by Allan Stokes, and in view of his absence would rather leave it as is. Commissioner Ehm noted that leaving it deleted would coincide with the current enforcement procedures.

Mr. Trask stated it would not change the Emergency Rule at this point but it should be included to go out for public comment.

Mr. Murphy stated that if it is not added to the rule, since it was an issue, it could possibly go into the preamble.

Consensus of the Commission was to reinsert the Enforcement Action section into the rule and express it accordingly in the preamble.

Following Mr. Paulin's explanation of changes to the remaining pages of the rules, the Commission discussed the changes requested by Mr. Trask earlier, under 65.6H - Manure Management Plans. Those proposed changes are as follows:

3. Exclusion of MMP from construction permit application.
 - a. Page 14, strike line 19 which reads: 1. The manure management plan required by rule 65.6H.
 - b. Page 14, line 21, strike "including the manure management plan".
 - c. Page 19, lines 21-23, strike "complete application, including a" and insert ", in addition to the construction permit application".
 - d. Page 20, lines 1 and 2, insert ", in addition to the construction permit application".
 - e. Page 22, lines 1 and 2, insert "as its manure management plan, in addition to the construction permit application".

f. Page 36, lines 7 and 8, delete “, including the manure management plan,”.

g. Page 36, lines 10-12, insert “The applicant may, but is not required to, give a copy of the manure management plan to the county board of supervisors.”

Consensus of the Commission was to make the changes as recommended by Mr. Trask on the Manure Management Plans under 65.6H(3) a, b, c, d, e, f, and g.

• 567--65.7B (2) - Manure Application by spray irrigation equipment

Don Paulin stated that the issue is when using spray irrigation whether the the sprayer could allow material to be applied heavy enough to run off from the field where being applied to another area on the same farm, as opposed to the language that is proposed to be struck, which says you cannot let it run off on to the adjoining property.

Maynard Jayne, Iowa Cattlemans Association, stated that the Association has been opposed to this whole scenario from the beginning. He related that he chaired the subcommittee on spray irrigation and met with people using the process and with manufacturer's of the equipment. He noted that many open feedlots use spray irrigation to dewater their stormwater runoff basin. He specified that this is about applying an organic nutrient in a very diluted form, not a hazardous or chemical waste. Mr. Jayne stated that in his proposal it says that if the water leaves the wettable parameter of where application is taking place and it stays on an individual's own land it does not matter. He noted that 65.7B (1) already states that it cannot leave a person's own property.

Mr. Paulin stated that the department is attempting to prevent runoff from happening as opposed to waiting to punish someone after it occurs.

Discussion followed in regard to penalizing a producer on his own land when making proper application, and improper application possibly causing fish kills.

Consensus was to go with the ACCO Committee and reinstate the struck language. This section would then read as follows: Application rate. The spray irrigation equipment shall be operated in a manner and with an application rate and timing that does not cause run-off of the manure onto the property adjoining the property where the spray irrigation equipment is being operated.

Director Wilson asked for clarification on 567--65.6H (12), dealing with Record keeping and confidentiality.

Mr. Paulin stated that the manure management plan is not confidential but record keeping done by a producer on-site is confidential, as set forth in HF 519. He added that the department has authority to request the records if necessary.

Discussion followed regarding the dates and locations for public hearings on these rules.

Motion was made by Charlotte Mohr to approve Notice of Intended Action--Chapter 65, Animal Feeding Operation Plans and ACCO Committee Report, as amended. Seconded by Michael Fesler. Motion carried unanimously.

APPROVED AS AMENDED

1996 LEGISLATION

Don Paulin, Deputy Director, presented the following item.

SUGGESTED ENVIRONMENTAL PROTECTION COMMISSION LEGISLATIVE PROPOSALS

LOW LEVEL RADIOACTIVE WASTE COMPACT REVISIONS

The State of Iowa is a member of a compact group of six states that was established pursuant to the Federal Low Level Radioactive Waste Policy Act. The language of the compact is found in Chapter 457B of the Code. In accordance with the Act, the states have cooperated in planning for disposal of these wastes and developed a plan for siting depositories for this material. Disposal sites are planned to last 20 years, at which time another site in another member state is to be opened. This rotating siting process was developed by the Midwest Interstate Low Level Radioactive Waste Compact Commission, and Ohio was chosen as the first host state. Ohio and the other states negotiated amendments to compact language to provide additional protections to their state and all future host states. The amended compact language was adopted by the Ohio legislature and signed by the Governor on June 9, 1995.

To continue the compact, Iowa and the other four states must adopt the compact amendment language as it was passed in Ohio. Since it is a compact, the language must be adopted exactly as it is written without amendment by all states and then ratified by the Congress before it can take effect. It may be important to note that the costs of these sites will be borne by those who generate the wastes.

TOXICS IN PACKAGING AMENDMENTS

Several years ago, Iowa adopted model legislation related to limits for the amounts of toxic materials in packaging. Since that time there has been a continued effort to identify questions, inconsistent results of application and inappropriate coverage of the packaging requirements. As a result of these efforts, several changes are being proposed which clarify the language of the law. This proposal will also provide for certain exemptions for specific types of limited use containers based on standard practices which reduce exposure of the public. Two year exemptions are also proposed where it can be demonstrated that there is no feasible alternative to using the material in packaging.

Mr. Paulin stated that there will probably be a waste tire legislative proposal by legislators. He noted that the two bills shown above are coming from the Waste Management Assistance Division and the most important one is the bill dealing with the Midwest Low Level Radioactive Waste Compact Commission revisions.

Mr. Paulin stated that the Toxics in Packaging language has been worked out with industry. He added that there are five states that have already adopted this type of language.

INFORMATIONAL ONLY

GENERAL DISCUSSION

Public Land Policy Forum

Chairperson King reported that she attended the Public Land Policy Forum held by the department regarding land acquisition and it was a very interesting and educational meeting.

She also reported on the first meeting of the Governor's Lagoon/Drainage Study Committee which she attended last week.

Director Wilson commented that the department held a Public Land Policy Forum on September 28, regarding land acquisition by the DNR, counties, and cities. He noted that the Iowa Cattleman's Association did not send a representative to the meeting.

ACCO Committee

William Ehm stated that he visited with a number of the people regarding the ACCO Committee and everyone had good comments about Don Paulin and the way the committee was handled.

Thomas Buckley

Director Wilson stated that Mr. Buckley indicated he talked to him several times, but Director Wilson clarified that he has never talked to him. He related that Senator Borlaug recently called and visited about this case and he advised the Senator to inform Mr. Buckley to be at today's meeting.

Don Paulin stated that he talked to Mr. Buckley once and got the impression that he is hanging his hat on the fact that he is a good operator, but the fact remains he did have an accident.

Mississippi River Parkway Commission

Charlotte Mohr stated that she attended a Mississippi River Parkway Commission meeting recently and plans are underway for the national meeting on February 29 - March 2, 1996, here in Des Moines.

Brief discussion took place regarding COE blanket Nationwide Permits.

NEXT MEETING DATES

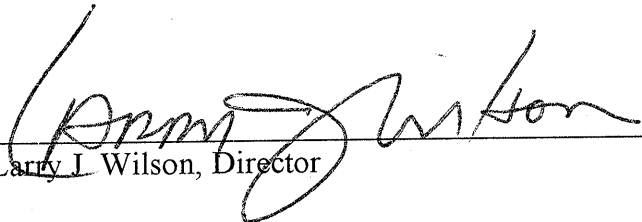
November 20, 1995

December 18, 1995


January 16, 1996 (Tuesday)

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson King adjourned the meeting at 6:05 p.m., Monday, October 16, 1995.


Larry J. Wilson, Director


Rozanne King, Chair


Charlotte Mohr, Secretary

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